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RECORDS EXTRACT OF APPELLANT

IN THE
APPELLATE COURT
OF MARYLAND

September Term 2022,
No. 1145 & No. 1457

JUSTIN HOLDER

Appellant

V.

JEFFREY YOUNG

Appellee

Appeal from the Circuit Court of Washington County
The Honorable Andrew F. Wilkinson

RECORD EXTRACT

Volume 1

JUSTIN HOLDER
APPELLANT

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG *

Plaintiff *

v. * **CASE NO. C-21-CV-20-371**

JUSTIN HOLDER, et al. *

Defendants *

TRANSCRIPT OF PROCEEDINGS

(MERITS HEARING)

(VOLUME I – DAY ONE)

Circuit Court

Hagerstown, MD

June 21, 2022 at 9:06 a.m.

Before:

The Honorable Andrew F. Wilkinson

Appearances:

R. David Pembroke, Esquire, attorney for Plaintiff, Jeffrey Young; and

Justin Holder, Defendant, pro se; and

Brandy Peeples, Esquire, attorney for Defendant, Deena Holder; and

Robert Kline, Esquire, attorney for Defendant, Uncle Eddies Broken Down Palace.

Transcribed from electronic recording by:

Linde M. Cessna, Court Reporter
Circuit Court for Washington County, Maryland
The Court House
Hagerstown, Maryland 21740
240-313-2564

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P R O C E E D I N G S

VOLUME I – DAY 1

THE COURT: Everybody have a seat, please. Relax. Good morning everybody.

MR. PEMBROKE: Good morning, Your Honor.

MR. KLINE: Good morning.

MR. HOLDER: Good morning, Your Honor.

THE COURT: Let me get myself organized here. Okay. We are on the record for the matter of Jeffrey Young versus Justin Holder, et. al. This is C-21-CV-20-371. We are here for a three-day trial. Today is day number one. Mr. Pembroke, if you would introduce yourself and your client please?

MR. PEMBROKE: Thank you, Your Honor. For the record, David Pembroke, appearing on behalf of the Plaintiff, Jeffrey Young who is present.

THE COURT: Very well. Thank you. Mr. Kline.

MR. KLINE: Good morning, Your Honor. Robert Kline on behalf of Uncle Eddies Broken Down Palace, LLC.

THE COURT: Okay. Ms. Peeples?

MS. PEEPLES: Good morning, Your Honor. Brandi Peeples on behalf of the Defendant, Deena Holder.

THE COURT: And where is Ms. Holder?

MS. PEEPLES: Ms. Holder is there. (Indicates. Sitting in row behind trial tables)

THE COURT: Okay. Not enough room at the big table. But if you can stay in the courtroom for me so I know where you are. Okay. And Justin Holder, sir.

MR. HOLDER: Justin Holder in proper person, sir.

THE COURT: Very good. Thank you, sir. Before we get to preliminary matters from counsel, actually, let's do that first. Mr. Pembroke, are there going to be any preliminary matters before we get to Opening Statements today?

MR. PEMBROKE: Yes, Your Honor. I would just like to indicate that there was a stipulation with respect to certain documents being admitted - -

THE COURT: Okay.

MR. PEMBROKE: - - by all parties.

THE COURT: Yes.

MR. PEMBROKE: There was also a stipulation to the qualifications of experts, specifically, Christopher Joliet, Ms. Clayburn (sic) and Mr. Nagle. Also, possibly for Mr. Culler and Moser if they are called by the Plaintiff. At this point, I would honestly say, I'm not contemplating calling them but you know how fluid trial can be.

THE COURT: So, Joliet, Clabaugh, Nagle and who are the last two?

MR. PEMBROKE: Culler and Moser.

THE COURT: Culler and Moser.

MR. PEMBROKE: And additionally, Your Honor, my expert,

Mr. Christopher Joliet, I would ask that he be allowed to remain in the courtroom during the proceedings because his expert opinions will rely in part on the testimony of the evidence that would be presented during the Plaintiff's case.

THE COURT: Okay.

MR. PEMBROKE: I believe those are all the preliminary matters that I have. I would, I would also indicate to the Court there is a witness for the Defense Ms. Hildebrand, I believe by stipulation. She will present herself this afternoon at 2:00 o'clock for examination by the Defense.

THE COURT: Sort of out of order but based on her schedule we might understand.

MR. PEMBROKE: Correct and we're trying to accommodate her schedule.

THE COURT: Understood. Just let me know when we get to that point, okay.

MR. PEMBROKE: Yes, sir.

THE COURT: Mr. Kline, do you expect any preliminary matters yet this morning?

MR. KLINE: The only clarification with respect to what Mr. Pembroke represents to the Court is we do have a list that was circulated yesterday didn't get to be signed, um, but if the Court is going to receive at this point it's the list of what was pre-filed by Mr. Holder Exhibit 1-22. Certainly, they will be introduced and given to your Clerk to

scan in and whatever but if the Court wishes to have the list of what's been agreed to between the parties I can provide the Court with a list.

THE COURT: Has that been agreed to by all the Defendants?

MR. KLINE: Yes.

THE COURT: Have you seen it Mr. Pembroke?

MR. PEMBROKE: I have, Your Honor.

THE COURT: So, it's just the list of what was pre-filed but none of it's in evidence yet?

MR. PEMBROKE: That's correct.

MR. KLINE: That's correct.

THE COURT: Okay, so there's no agreement - - There's no stipulation that any of it is coming into evidence?

MR. KLINE: It's stipulated that should it be presented to come into evidence there would be no objections. We won't have to go through the certification process.

MR. PEMBROKE: Well - -

THE COURT: Is that what the stipulation was?

MR. PEMBROKE: No objection as to the authenticity. There was no agreement with respect to whether or not the document would be relevant.

THE COURT: Relevant or not hearsay, etc., etc., etc., but that it is a document that is a true document.

MR. PEMBROKE: And most of the documents that we're

talking about are land records and so and certified.

THE COURT: Oh. Got it. Okay.

MR. KLINE: Other than that, I believe the Defense will be calling Mr. John Dowling from Annapolis as an expert. He was absent from Mr. Pembroke's list of experts.

THE COURT: Okay. Mr. Pembroke, Mr. Dowling, is that a name that there will be no objection to him being qualified as an expert that I should add to this list that you just gave me or do you expect an objection at some point?

MR. PEMBROKE: Um - -

THE COURT: Or do you wish to reserve?

MR. PEMBROKE: I believe I wish, wish to observe, sorry, reserve.

THE COURT: Okay. Anything else Mr. Kline?

MR. KLINE: Sequester all the witnesses, Your Honor, that are not experts. I agree with Mr. Pembroke's request for his experts obviously.

THE COURT: I'll do that in just a moment.

MR. KLINE: Yes, sir.

THE COURT: Ms. Peeples, do you believe that there's any preliminary matters that we need to deal with?

MS. PEEPLES: Yes, Your Honor, I would just like to raise for the Court and renew previously Motion to Dismiss that was made by my colleague Matt Ruble in connection with the failure to join necessary parties in this action. And

secondly, as indicated in my pre-trial statement, I'd like to offer another Motion to Dismiss based upon the fact that the Complaint as written fails to comply with Maryland Rule or Real Property Code 14-606, which requires adverse claims to be specifically stated against my client, Deena Holder. If you actually read the individual complaint, Your Honor, which has not been amended, nowhere in the complaint is there allegations as to Ms. Deena Holder, separate and apart from Mr. Justin Holder. And for those reasons I think that the expressed language of 14-606, which states, "A complaint under this subtitle shall be verified and shall include, one, a description of the property that is the subject of the action, including both its legal description and its street address or common designation, if any," or two, which is more relevant to the argument that I'm making today is, "The title of the Plaintiff as to which a determination is sought and the basis of the title. And two, if the title is based on adverse possession the specific text constituting the adverse possession. And number three, the adverse claims to the title of the Plaintiff against which a determination is sought."

Nowhere in Plaintiff's complaint is there a statement as to the claims of the Plaintiff against Ms. Deena Holder. And I would submit on that basis alone and on its face absent any amendments the Complaint fails as to Ms. Deena Holder in this

case. Thank you.

THE COURT: Do you wish to be heard?

MR. PEMBROKE: Yes, Your Honor. I think, I think what is interesting in this sense - - I'll just have two quick points. Number one, these, these issues have been raised multiple times before. The Court has considered them and denied them. More specifically thought, I think it's very significant in this particular case Mr. Holder was not named as a Defendant. Ms. Holder joined this suit voluntarily by filing an answer. So, she injected herself into this case.

THE COURT: The Complaint says Jeffrey Young versus Justin Holder and Deena Holder.

MR. PEMBROKE: Oh, I'm sorry. Then I misspoke.

THE COURT: That's okay.

MR. PEMBROKE: I believe - - I think - - I believe that I possibly amended that before it was filed.

THE COURT: Okay.

MR. PEMBROKE: I thought that only Justin Holder was listed as a Defendant. Named Defendant. My apologies.

THE COURT: Any other argument then?

MR. PEMBROKE: Well, the other argument is that matter has been considered before and has not been granted. And I believe it's been made by multiple defendants.

THE COURT: Any of the other defendants wish to be heard? (No audible response) This matter has been considered

by the Court before and has been denied. I believe that the Complaint is sufficient and that it outlines the case for adverse possession against all of the named Defendants and therefore the Motion to Dismiss is denied. Anything else Ms. Peeples?

MS. PEEPLES: Other than opening statement, Your Honor.

THE COURT: Yes, we will get to that. Okay. Mr. Holder, do you believe there are any preliminary matters that I need to deal with before we get to opening statements?

MR. HOLDER: Yes, Your Honor. I would just ask that you take notice that Mr. John Dowling told me he had tested positive for COVID. He's getting a more specific test today. But I did have him scheduled. I may be asking to file a motion for alternatives or some - - I haven't decided yet.

THE COURT: Well, then I can't decide yet either then.

MR. HOLDER: Correct.

THE COURT: Okay. Alright. Okay. We do have a couple subpoena issues to deal with and I just want to let the parties know how I'm handling that. Late last week motions to quash came in on Mr. and Mrs. Pickett. And then a second motion to quash on the Town of Keedysville and Mayor Lord. I issued orders in those indicating that counsel for those parties, not those parties, those potential witnesses were to contact my chambers by 10:00 a.m. today. I have heard from Keedysville. Mr. Kuczynski can be here at 1:00 o'clock today

and therefore at 1:00 o'clock today we are going to argue the Keedysville, Mayor Lord, Motion to Quash that subpoena. I don't know yet whether I have heard from the Picketts. My intent is to schedule that hearing at 1:00 o'clock as well. Their attorney, I believe, is out of town, so it may be on the television screen by Zoom. So, just in your notes those two subpoenas I'm hoping we would handle them at 1:00 o'clock.

I also saw a second Motion to Quash filed by DNR very late in the week after a second subpoena was issued. Is there anyone from DNR here today on that motion?

MR. HOLDER: They were here earlier, Your Honor.

THE COURT: Okay. Mr. Kauffman, can you check to see if there is an attorney in the hall for the Maryland Department of Natural Resources?

MR. KAUFFMAN: Yes, sir. (Bailiff checks hallway)

THE COURT: Well, I'm not convinced she's in the hallway. That's taking too long. Okay. We will see if she's here. And we'll come back to that. Ladies and gentlemen who are in the gallery, a request has been made by the attorneys in this case for what is called the Rule on Witnesses. The Rule on Witnesses says that during the course of a trial if you expect you're going to be a witness, if you have been subpoenaed, if you've talked to any of the attorneys indicating they want you to be a witness or any of

the attorneys you look around and you see somebody in the gallery that you think is going to be a witness you cannot remain in the courtroom during the testimony. And the reason for that is when it's your turn to come to the witness stand and answer questions and tell me what you know about the case I want to hear what you know. I don't want to hear you repeat something you heard somebody else say. What you know about the case shouldn't come from what you hear in this courtroom. It should come from your recollections. So, if you expect that you are going to testify, counsel, I'd ask you to turn around and make sure all your witnesses leave, other than the parties, Mrs. Holder, you're allowed to stay. Mr. Joliet, you are allowed to stay. Anybody else who is going to be an expert witness if they are in the courtroom they are allowed to stay. But any witness who's not a real estate expert and you know it I'm going to ask you to step outside. Generally, stay close please. Okay. And maybe when we take our first break the attorneys might be able to tell you how far along we are and maybe if you can go get some lunch or get a cup of coffee rather than sit on the benches. What?

MR. HOLDER: He's not - -

MR. WREN: I'm not a witness, my wife is a witness.

MR. HOLDER: Yea, his wife is.

MR. WREN: We don't even know why we're here. She's got

to go to bed. She's got to go to work.

THE COURT: Okay. What's your name sir?

MR. WREN: Charles Wren.

THE COURT: Okay, who called Mrs. Wren as a witness?

MR. HOLDER: It was Ms. Carissa Myers. I called her.

THE COURT: I didn't know what her name was, I'm sorry.

MR. HOLDER: I could call her - - She could go to this afternoon. She's a defense witness.

THE COURT: Well, hang on. Have a seat, sir. What are the chances that we're getting to any defense witnesses today?

MR. PEMBROKE: Well, Your Honor, it would be my hope that a, my case will be concluded by the end of the day.

THE COURT: The day.

MR. PEMBROKE: It is possible, depending on how fast it moves along that, and Mr. Holder and I have discussed this, that it's possible that one or two defense witnesses might be able to testify today. We do have Ms. Hildebrand that will be testifying at 2:00.

THE COURT: So, she's one of them, right?

MR. HOLDER: Correct.

THE COURT: So, Hildebrand is going to come in here - - Think about this. At 1:00 o'clock we're going to have hearings, I hope, on motions to quash. That could easily take a half hour. Hildebrand is going to come in. How long

is Hildebrand going to testify do you think? Give me a guess.

MR. HOLDER: I would say five to ten minutes.

THE COURT: Okay, a half hour. (Laughter)

MR. HOLDER: Okay.

THE COURT: And the reason I say that Mr. Holder is we, as attorneys, as people we come in we always think witnesses are going to go faster. We always do. When Mr. Pembroke tells me that his case is going to be done by 4:30 today, I know he's wrong. And I'm just teasing you there. But it always goes longer than we think, okay. So, half hour on - - And we got to take breaks. Half hour on motion, half hour on Hildebrand, that's an hour of the afternoon. Mr. Pembroke, do you really think we're going to get to any more defense witnesses other than Hildebrand? That would be a stretch wouldn't it?

MR. PEMBROKE: Probably not.

THE COURT: Okay.

MR. HOLDER: Yes, I wasn't aware of the hearings.

THE COURT: Would Ms., - - What's her last name? Myers.

MR. HOLDER: Uh, Ms. Carissa Myers.

THE COURT: Carissa Myers. I guess what I'm asking Mr. Holder is rather than keeping Ms. Myers here today knowing that we're probably using the full day for the Plaintiff's case plus Hildebrand, are you willing to have Ms. Myers leave

now and come back tomorrow?

MR. HOLDER: Yes, I would like to do that.

THE COURT: Is that okay?

MR. HOLDER: Yes, Your Honor.

THE COURT: Okay. Mr. Wren? Why don't you have Ms. Myers come in for me so I can talk to her real quick? Come on up, ma'am, and just come right there to the gate. Are you Carissa Myers?

MS. MYERS: I am.

THE COURT: You received a subpoena to be here today?

MS. MYERS: Yes.

THE COURT: Okay, here's what I'm going to do. I'm going to excuse you for today.

MS. MYERS: Okay.

THE COURT: I would like you to come back tomorrow.

MS. MYERS: Okay.

THE COURT: Do you understand?

MS. MYERS: Sure.

THE COURT: 9:00 a.m. Is that what you want?

MR. HOLDER: Yes, Your Honor. That's fine.

THE COURT: Can you be here at 9:00 a.m. tomorrow?

MS. MYERS: Sure can.

THE COURT: Okay, you are free to leave the courthouse. I will see you tomorrow at 9:00 a.m.

MS. MYERS: Alright, sure, thank you.

THE COURT: Alright, Ms. Myers.

MR. HOLDER: Thank you, Ms. Myers.

THE COURT: Okay. Anything else then before we get to opening statements? From the Plaintiff? Ready?

MR. PEMBROKE: Um, I just need a moment to set up if I might?

THE COURT: Yes, take your time. Anything else from the Defense before we begin opening statements?

MR. HOLDER: No, Your Honor.

MR. KLINE: No, Your Honor.

THE COURT: Okay. Just so everybody knows, none of that time went against of you. And so that everybody understands during this trial if we say the words Uncle Eddie's, we are all talking about the LLC. Is that right? Because I don't want to have to say Uncle Eddie's Broken Down Palace, LLC, every time.

MR. KLINE: Yes.

THE COURT: Uncle Eddie's means the LLC, is that correct? Everybody on board?

MR. HOLDER: Yes, Your Honor.

THE COURT: Mr. Pembroke, are you ready for opening statements, sir?

MR. PEMBROKE: Yes, Your Honor.

THE COURT: I will hear from the Plaintiff.

MR. PEMBROKE: Thank you. Your Honor, this is a Quiet

Title action brought by Mr. Young with respect to property that is now knows as 13 Dogstreet Road in Keedysville, Maryland.

THE COURT: 13?

MR. PEMBROKE: 13. He purchased the property by deed dated August 3rd of 1988, from Harry Wickline and his wife. Property consisting of 10.36 acres. At the time of that conveyance there were three contiguous parcels that were combined into a single property. The Wickline deed the evidence will show recites under oath that all three parcels are warranted, specifically that Parcel 2 was acquired by adverse possession and there is a general warranty for the entire property. Just for the Court's edification, we believe the evidence will show that this portion here (indicates on map) down through here, up through here in this panhandle down here.

THE COURT: So, about two-thirds down the panhandle.

MR. PEMBROKE: To this point is Parcel 1.

THE COURT: Okay.

MR. PEMBROKE: Part up here in the top portion going down to this point is Parcel 3 and then the remaining portion of the panhandle going to Dogstreet Road is Parcel 3. I'm sorry, Parcel 2.

THE COURT: 2. Okay.

MR. PEMBROKE: I'm going to do that a lot.

THE COURT: That's okay.

MR. PEMBROKE: Is parcel 2. I believe the evidence will show that at least in this case there is not a dispute as to Mr. Young's ownership of Parcels 1 and 2. We believe the evidence will show that Mr. Young perfected his title to the property Parcels 2 and 3 by adverse possession that has been actual, open, notorious, exclusive, hostile, under color of title or color of right and continuous and uninterrupted for more than a statutory period of twenty years.

Defendant Justin Holder claims ownership of Parcel 3 by virtue of I believe it's Quick Claim Deeds that he acquired fairly recently, I believe in 2020 and 2021. We believe the evidence will show that the grantors in the Quick Claim Deeds had already lost all right, title and interest in Parcel 3 by the time those deeds were executed. And that his adverse possession of Parcel 3 had ripened prior to the purported transfer of the property to Mr. Holder.

Defendants Deena Holder and Uncle Eddie's claim a easement over Parcel 3. The source of deed for that is a deed from 1872, which provided for the use of a wagon road. The language contained in the 1872 deed did not include the language right-of-way over. Additionally, in that deed, the width of the wagon road is not specified or disclosed in any way. We believe the wagon road ended as I indicated at Mr. Young's Parcel 1 and did not go to the County road of what is

now Dogstreet Road. The language also indicates in the chain of title that the roadway was a private road. We believe that the words "right-of-way", based on our examination of the title search, right-of-way did not appear in the chain for forty-two years after the 1872 deed was issued. We believe the evidence will show the wagon road ceased to exist or be used by any owner for decades, either before Mr. Young purchased the property or certainly now because he has owned the property for thirty-four years at this point. And that Mr. Young purposefully allowed Parch 3 to return to basically woodland and grassland. And he intended that that portion of his property be impassable.

Under the facts that would be presented in this case the grant from 1872 is a license and not an easement. That it was subsequently abandoned and or extinguished by Mr. Young's adverse possession of the servient estate.

We are requesting in this matter, Your Honor, that the Court quiet his title to his property, the three parcels, declaring that he holds good title to it, find that there is no right of access vested in the Defendant's by virtue of a license or an easement or a right of way or to cross any portion of his property without his expressed permission and authority.

MR. HOLDER: Your Honor, I believe my defense is that the title deeds in 1988. August 3rd did not transfer good

title to Parcel 3 to the Plaintiff and that he has not met the legal requirement necessary to show adverse possession in this case.

THE COURT: Thank you, sir.

MS. PEEPLES: Good morning, Your Honor, Brandy Peeples again on behalf of the Defendant Deena Holder. As to the Defendant Deena Holder in this case, it's apparent that few if any facts are actually in dispute. I believe that the questions that pertain to Mrs. Holder are questions of law. I'm here to remind the Court that it is, since the Plaintiff is claiming that there has been an abandonment of a license and or right-of-way it's the Plaintiff's burden to prove so, which means preponderance of evidence. You've done this for a minute so I think you understand that what the Plaintiff has to prove but in this case this whole question relating to Defendant, Deena Holder, is whether or not the right-of-way exists, which begs two questions then. Is the right-of-way a license as Plaintiff's expert has testified? Is the right-of-way easement as Defendant will assert that it is through Defendant's experts as through the expressed languages in the deed? Or and whether or not that easement has been abandoned. The evidence will show through self-authenticating deeds that the wagon road easement was created in 1872. The evidence will also show that through a title abstract and search this what we're contending is a right-of-

way or an easement and Maryland case law is clear that it is found that the words, "right-of-way," are synonymous with easement and I can pull up the case for you or I can brief Your Honor on that. So, the mere usage of the words, "right-of-way," equal easement.

These easements or this easement has been carried through in several deeds and at some point it drops out of a deed. However, continuing deeds did contain a clause which incorporated all the encumbrances of record. It's our position that Maryland case law also holds that clear that as long as you reference encumbrances of record it goes back to the prior deeds and thus Mr. Young was on notice of the fact that Parcel 3 in this case did contain an easement across it.

The evidence will show that in discovery, which I think is important, for purposes of the allegations that Plaintiffs are making in this case, that there has been absolutely zero evidence asserted by Mr. Young that demonstrates that there has been any abandonment of an easement. Maryland case law is clear on the issue of easement abandonments as well. It has to be a decisive act. Mere non-use will not extinguish an easement. And, again, I can quote the cases. I have them with me today, Your Honor.

So, the fact that you have an easement that was carried forward in many deeds, the fact that you have incorporating clauses, which incorporate the encumbrances of record, the

fact that you have zero evidence, affirmative evidence, that the Plaintiff is required to prove that the easement has been abandoned can only lead this Court to the conclusion that an easement does in fact exist and is not a license and there is case law on what constituted an easement and what constitutes a license and I'm sure I will get into that issue when Mr. Joliet testifies. But that there is nothing that the Plaintiff has duced that can demonstrate abandonment. I mean, none of us can go back to the 1860's and determine what these people meant when they talked about granting a right-of-way over a railroad or a wagon road. But I think that it's also not this Court's purview to supplant any extrinsic evidence based, you know, that's not contained in the four corners of those documents and it's not this Court's position to be able to analyze what might have been meant by this term wagon road other than the fact that the documents speak for themselves.

Mr. Joliet bases his interpretations on the deeds, which we'll cross-examine him about, but I believe that the case law regardless of Mr. Joliet's opinion is what this Court must follow. Right-of-ways or easements, not licenses, and the easements were not abandoned.

Defendant also expects as will come up and as did come up in discovery that at some point in time the predecessors in title to Ms. Holder's parcel, which is 25 and 28 Antietam

Drive, executed an easement granting a right-of-way in and through Antietam Drive to Mrs. Holder's property. I submit to the Court that that's a red herring because case law, again, is abundantly clear that an alternate way to go somewhere, whether an easement is granted or whether there's another right-of-way through a different portion of property does not extinguish a previously existing easement. So, the fact that you now might have two options to exit your property doesn't mean that the first option goes away when the second option has been entered. So, I would trust that the Court understand that principle of law when deciding whether or not an easement versus a license exists.

Based upon the evidence of discovery, Your Honor, I don't think that the Plaintiff will meet its burden in the presentation of the Plaintiff's case and we intend to move for judgment following the Plaintiff's case. Thank you.

THE COURT: Very well. Thank you. Mr. Kline.

MR. KLINE: Thank you, Your Honor. I'm just going to for the purposes of the timing I know the Court has us on a tight leash as far as timing, I am going to incorporate all of Ms. Peeples' arguments. There's no reason for me to regurgitate or recite what has already been said.

THE COURT: I'm with you.

MR. KLINE: Her client and my client, for all intents purposes, are most likely in the same legal theory and or the

same facts. I would just point out one thing and perhaps she during her detailed opening statement the Defense, Uncle Eddie's, in its answer, did indicate that the plat performed by Wickline and we believe the evidence will show is incorrect and that there's a problem with the way that the plat was drawn which has some import and we hope to develop through cross-examination and show through experts that as a result of that there is a change in where that line should be. And we think that the Court has in its power the ability to determine where the line should be after hearing from the experts. And that's all I really want to add to Ms. Peeples' opening statement, Your Honor. Thank you.

MS. PEEPLES: Thank you.

THE COURT: Very well. Mr. Pembroke, are you ready for your first witness?

MR. PEMBROKE: Yes, Your Honor. Call Mr. Young.

THE COURT: Okay.

TESTIMONY OF JEFFREY YOUNG

Jeffrey Young, having been duly sworn, did testify as follows:

THE COURT: Sir, tell me your full name.

MR. YOUNG: Jeffrey Lee Young.

THE COURT: Okay, Mr. Young, the chair doesn't go back and forth. It swivels though. You don't need to yell until I tell you we can't hear you. Okay.

MR. YOUNG: Very good.

THE COURT: Please be sure that you allow the attorneys to finish their question before you start answering. Okay?

MR. YOUNG: Yes, sir.

THE COURT: Okay. Mr. Pembroke.

DIRECT EXAMINATION

BY MR. PEMBROKE:

Q. Thank you. Would you state your address?

A. 13 Dogstreet Road, Keedysville.

Q. And is that the subject property that brings us here today?

A. Yes, sir.

Q. How old are you, sir?

A. Sixty-eight.

Q. And are you married?

A. Yes.

Q. Alright, and do you have children or stepchildren?

A. I have two stepchildren.

Q. How old are they?

A. Forty-two and forty.

Q. And are you employed?

A. I'm retired.

Q. How long have you been retired?

A. Approximately five years.

Q. And when you were working what was your occupation?

A. Fabricator/welder.
Q. Alright. Do you have any particular training or experience as a surveyor?
A. I do not.
Q. Or an engineer?
A. I do not.
Q. Or a title abstractor?
A. I do not.
Q. When did you purchase your property on Dogstreet Road?
A. In 1988.
Q. And from whom did you purchase it?
A. Harry Wickline.
Q. Let me show you what's been marked as Plaintiff's exhibit 1. May I approach the witness?
(Plaintiff's exhibit 1 was marked for identification.)
THE COURT: Yes, sir.
Q. Plaintiff's exhibit 1, do you recognize that document?
A. Yes I do.
Q. What is it?
A. I believe it's an original deed I gotten from Harry and Lempi Wickline.
Q. Okay, and to the best of your knowledge was that

deed filed in the Land Records of Washington County?

A. Yes, sir, to the best of my knowledge.

Q. I move for admission of 1.

THE COURT: Any objection?

MR. KLINE: I have no objection on 1 based upon the prior agreement. Can you just give me the liber folio reference please?

MR. PEMBROKE: Liber 885 110.

MR. KLINE: 110. Got it.

MS. PEEPLES: That's Plaintiff's 1, Your Honor?

THE COURT: Yes, it is. No objection, it will be admitted.

(Plaintiff's exhibit 1 was admitted into evidence.)

Q. Now, when you purchased the property how many parcels were included in the purchase?

A. Three.

Q. Okay. You've seen the diagram, correct?

A. Yes.

Q. Do you recognize the diagram?

A. Yes, sir.

Q. Okay, is that a plat of your property?

A. Yes.

MR. KLINE: Objection.

THE COURT: Basis?

MR. KLINE: Basis is it hasn't been introduced yet in the testimony. It may be what he thinks his property is but as I said at least as far as Uncle Eddie's is concerned we're concerned about the drawing itself.

THE COURT: Right.

MR. KLINE: If he wants to say that that more or less generally describes his property as he knows it but he's already testified he's not a surveyor or an expert in the department.

THE COURT: Understood. The objection is overruled. I understand what he's saying is that this is what he believes his property is. I understand Uncle Eddie's and the other defendants may say that plat is wrong. But as far as him believing that that's his property the objection is overruled.

MR. PEMBROKE: Now, Your Honor, if I might have Court's guidance. We, as part of our stipulation this plat is included.

THE COURT: Right.

MR. PEMBROKE: I have the actual plat that has been certified.

THE COURT: Yes.

MR. PEMBROKE: I would like to introduce actually both of these as an exhibit.

THE COURT: Okay. Well, I think what we can do is the

one in your hand, the small one, that can be scanned in, that can be exhibit 2. We can make the big one because it's the same thing, right? That can just be a demonstrative exhibit. I don't know that it needs to actually go into evidence. But I'm glad you have a big one because I need to be able to read it.

MR. PEMBROKE: Well, actually, Your Honor, I think, what I anticipate is I anticipate subsequent witnesses marking on this.

THE COURT: Mr. Clerk, the big one, do you want, if we mark that as Exhibit 3 it just becomes an exhibit as it is, right?

CLERK: Correct.

THE COURT: We'll go 2 and 3.

CLERK: We won't be able to scan, so you know.

THE COURT: That's too big. Alright. Then we'll go number 2 and number 3. I'm okay with you introducing both of them. Because I understand, a bunch of witnesses are going to come up and they're going to be pointing at the big one.

MR. PEMBROKE: Yes, sir.

THE COURT: So, let's be sure that the big one is in evidence. And I don't mind both of them being in unless there's an objection.

MS. PEEPLES: For clarification purposes number 2 is the small version of the Wickline plat?

THE COURT: We're going to mark it right now. We're going to mark them.

MS. PEEPLES: Okay.

MR. PEMBROKE: Well, I guess I should have this identified by the witness as well since it's a separate exhibit.

THE COURT: Is there really any objection that that's the same exhibit. It's just smaller?

MR. KLINE: Yes. No. Your Honor - -

THE COURT: It's the certified one. And you certified it, right?

MR. PEMBROKE: It is.

THE COURT: Alright, why don't you have the clerk mark that as number 2 and Mr. Clerk, can we get a number 3 sticker for the big one. And so, the record will reflect Exhibit number 2 and Exhibit number 3 are both the same thing. They are plat 2499, one of the plat records of Washington County, Maryland.

MR. PEMBROKE: And I'd move for admission of, if I didn't already, 1, 2, and 3.

MR. KLINE: No objection, Your Honor.

THE COURT: Okay. Exhibits 1, 2, and 3 for the Plaintiff are admitted.

(Plaintiff's exhibits 1, 2 and 3 were marked for

identification and admitted into evidence.)

Q. Now, generally speaking Mr. Young would you for the Court's edification, would you describe, generally describe the area what it's like in parcel 1?

A. Parcel 1 is the larger portion and it's where my house is located. As you come back the lane there's a cliff drop-off and kind of hilly, the rest is pretty wooded what I haven't cleared and mowed and maintained.

Q. Alright, that's parcel 1?

A. Yes.

Q. Alright. And what about parcel 3?

A. Parcel 3 is on top of the cliff there. It's grown up and almost impassable. You can barely walk down it.

Q. And parcel 2?

A. Is the end portion of the driveway coming off of Dogstreet?

Q. Is that the current condition of the three parcels or their condition when you purchased the property in 1988?

A. Everything was grown up in '88. I since cleared sections out to mow regularly. And worked on the driveway all the way back.

Q. Alright, now, um, when you first acquired the property you say house was on parcel 1.

A. Yes.

Q. What was the condition of the house?
A. It was pretty bad, pretty rough.
Q. Did you undertake to repair or rehab the house?
A. Yes, I did.
Q. And just very generally speaking can you tell the Court what you did to repair and rehab the house?
A. Pretty much had a new roof, new windows, new doors and put furnaces in, put water in, redid the electric, put well, septic in.
Q. Do you know what your acreage is?
A. 10.36 acres.
Q. Okay. Your deed, you're familiar with your deed that was Plaintiff's exhibit 1?
A. Yea.
Q. Does that specifically indicate that there is a right-of-way or an access is granted over parcel 3 to anyone?
MR. KLINE: Objection.
A. I did not see - -
MR. KLINE: Document speaks for itself.
THE COURT: What's the objection?. I'll allow him to answer it. Overruled. His answer was he's not seen it. I'll decide that though.
A. For what I read through the deed I did not see a right-of-way through that portion of the property.
Q. When you purchased the property was the area of

parcel 3 passable?

A. No. You could barely walk through there.

Q. And can you describe it in terms of why it was not passable?

A. It had been let grown up for, uh, Wickline said they had the property for like twenty-five years. So, everything was overgrown.

Q. Were there mature trees on it?

A. Yes.

Q. Was there underbrush on it?

A. Yes.

Q. Were you able to observe any physical sign of a lane or a passageway through any part of parcel 3 when you bought it?

A. Not that I could indicate just a pull-off place halfway down the lane there by the curb. If you got stuck coming down the lane you had to pull off or backup a quarter of a mile, that clear area up there.

Q. Alright, now you said that parcel 2 is the end of the driveway?

A. Yes.

Q. And where does that driveway go with respect to public road if anywhere?

A. Two exits on Dogstreet Road.

Q. And what was the condition of the area I'm showing

you here which we are calling the panhandle and parcel 2, the panhandle being a portion of parcel 1, is that correct?

A. Yes.

Q. Okay, and the bottom part of the driveway is parcel 2?

A. Yes.

Q. Okay. Can you tell the Court when you first moved to the property what that driveway was like?

A. Everything was overgrown. I had to trim it back to get access and the next step put stone it and graded it and made it passable or passable.

Q. And when you were working on your house in parcel 1, did you do exterior work as well?

A. Also, yes.

Q. What type of exterior work did you do?

A. Had the stone pointed up, took the old shingles off and repainted the exterior, repaired the porches.

Q. How long did this take?

A. Three to four years off and on out there.

Q. Alright, did you live on the property during that period of time?

A. Yes, I fixed a room up to stay in.

Q. Alright, and did you have any assistance in working on the house?

A. I contracted the major projects out, yes.

Q. Were there times when the contractors had building materials on the property?

A. Absolutely.

Q. In times when they had trucks and what have you?

A. Absolutely.

Q. And was their presence and your presence on the property visible?

A. Probably not. It's pretty secluded.

Q. But if anybody had come up there - -

A. If anybody come back there they could see the place was being worked on.

Q. And you weren't trying to hide your presence were you?

A. No.

Q. Okay. Now, when you were working on the driveway putting down the stone and clearing out the brush, again, anybody coming by would they be able to see that somebody was on the property maintaining it?

A. They should have. I mean, anybody drive by Dogstreet they, you know, would see up the lane, there's the exit, it started to be cleared and maintained.

Q. You weren't trying to hide your presence were you?

A. No.

Q. What were you - - What did you do if anything up on when you first moved in up on parcel 3?

A. I just let it be, let it grown up. I had other projects to work on.

Q. Alright, did there come a time did you ever trim the undergrown from the overgrown or mow the property?

A. There was a time I mowed up through there, yes.

Q. How long did you mow the property?

A. Off and on for years.

Q. How many years?

A. Probably four or five.

Q. Alright, then there came a time when you stopped?

A. Yes, because I started clearing more property around the house to mow.

Q. Okay. When you stopped mowing the property on parcel 3 what was your intention with respect to parcel 3?

A. To let it grow up and go back to nature?

Q. Why?

A. Because I had enough property to take care of around the house. I didn't need to be, you know, somewhere I couldn't even see from the house, mowing.

Q. Okay. Was it your understanding when you purchased the property in 1988 that you were the sole and exclusive owner of all of those 10.36 acres?

A. Yes.

Q. Okay. Now, did there come a time when you got a quick claim deed for part of your property?

A. Yes.

Q. Okay, when was that if you know?

A. I believe in ’93. When I was refinancing the house the bank lady aware of a deed overlap.

Q. And from whom did you obtain the deed?

A. Jennifer Butts.

Q. And is the property that you obtained by this deed from Ms. Butts, is it depicted on this oversize or this enlarged plat?

A. Yes.

Q. Alright. Can you, can you demonstrate to the Court where this portion of the property is?

A. Can I get up? (Witness steps down and approaches the plat on the easel)

THE COURT: Take your time getting down, sir.

A. End of lane on parcel 2.

MR. PEMBROKE: Okay, Your Honor - -

THE COURT: Let the record reflect that Mr. Young is pointing to the portion of the lane from Dogstreet Road about a third of the way up the lane and there’s a note above it. (Witness returns to witness stand)

MR. KLINE: I didn’t see (inaudible).

THE COURT: Okay. That’s where he pointed. And that’s indicated therefore as parcel 2 related to the Quick Claim Deed, you’re about to show me?

MR. PEMBROKE: Yes, sir.
THE COURT: Okay.
Q. Now, let me show you what's been marked as Plaintiff's exhibit 4, and ask if you can identify that.
(Plaintiff's exhibit 4 was marked for identification)
A. Yes, that's the copy of the Quick Claim Deed from Jennifer Butts to me.
MR. PEMBROKE: Move for admission of 4.
THE COURT: Any objection on 4?
MR. PEEPLES: No, Your Honor.
MR. HOLDER: No, Your Honor.
THE COURT: Okay. Plaintiff's 4 is admitted. This is a 1993 deed from Jennifer Butts to Jeffrey Young.
(Plaintiff's exhibit 4 is admitted into evidence)
Q. Now, when you first, when you first purchased the property, can you just give a very brief description of what the land was like around your property?
A. Well, it was inhabitant for twenty-five years so everything was pretty well overgrown, brush and tall grass.
Q. Was it meadowland, farmland?
A. It was mostly hillside land with a few flat, across the creek was all flat and grown up.
Q. Okay. Alright, did there come a time when a housing

development was erected near your property?

A. Yes, two of them.

Q. Okay. Was one of them Stonecrest?

A. Yes.

Q. Alright. And where looking at the plat 2499 can you tell the Court where Stonecrest is?

A. On the left-hand side of the property coming in the lane.

Q. Alright, up here?

A. Yes.

MR. PEMBROKE: Let the record reflect he is indicated it is on the upper to mid left-hand side of the exhibit below the area where the State of Maryland seal is.

THE COURT: Thank you. Which is indicated on plat 2499 as part of Leonard Dorsey.

MR. PEMBROKE: Yes, Your Honor.

THE COURT: Okay.

Q. Now, does your property abut Stonecrest?

A. Yes.

Q. And what part of your property abuts to Stonecrest property?

A. Left-hand side of the lane, left-hand side of parcel 1.

Q. Alright. What about parcel 3, does that abut?

A. Yes, parcel 3 also.

Q. And did there come a time when you gave a agreement to dedicate a right-of-way having to do with the Stonecrest development ultimately?

A. Uh, yes on the end portion of the lane.

Q. Alright, would you come down and show the Court? (Witness steps down and approaches the plat on the easel)

A. For widely purpose and access to Stonecrest is in this area right here.

Q. Alright, and who requested that you dedicate a right-of-way?

A. Tom Davis. (Witness returns to witness stand)

Q. Alright.

THE COURT: The record reflects he was point at the intersection of Dogstreet and the lane. Is that correct?

A. Yes, sir.

Q. Alright, let me show you what's been marked as, what will be marked. Alright, let me show you what's been marked as Plaintiff's exhibit 5, and ask if you can identify that.

(Plaintiff's exhibit 5 was marked for identification.)

A. Yes.

Q. What is it?

A. It's the deed I gave to or sold to Tommy Davis for the portion of the property, the easement.

Q. It's actually an agreement.

A. Agreement, yes.
Q. Alright. Move for admission of 5.
THE COURT: Any objection on 5?
MS. PEEPLES: No objection.
MR. KLINE: Your Honor, if I may? Would it be possible, I'm not telling Mr. Pembroke how to introduce, I'm fine with that. Could he just give the date, the liber folio and generally rather than saying admit 5 because - -
THE COURT: Sure. I'll say it.
MR. PEMBROKE: I thought since we had the stipulation that wouldn't be necessary.
MR. KLINE: It's not necessary but I have a bunch of - -
THE COURT: It might be helpful to the Clerk. Might be helpful to the Clerk.
MR. KLINE: Yes.
THE COURT: So, number 5 is an agreement to dedicate right-of-way dated August 19, 1999, from Jeffrey and Cheryl Young to Thomas Davis. Exhibit 5 is admitted.
(Plaintiff's exhibit 5 is admitted into evidence)
MS. PEEPLES: Court's indulgence. What was exhibit 4, Your Honor.
MR. KLINE: A Quick Claim Deed from Butts to Young.
MS. PEEPLES: Okay, that's what I - -
THE COURT: Parcel 2 Quick Claim Deed from Jennifer

Butts 1993.

MS. PEEPES: Thank you, Your Honor.

THE COURT: Yes.

Q. Now, pursuant, pursuant to the agreement there was a deed that was actually executed to accomplish the extension or the widening of the road?

A. Yes.

Q. Let me show you what's been marked as exhibit 6. I ask if you can identify that?

(Plaintiff's exhibit 6 was marked for identification)

A. Yes.

Q. Okay, and what is that?

A. That's the deed it's between me and Tommy Davis.

Q. Okay, and this is recorded at liber 2006 folio 154, dated November 26th of 1999, correct?

A. Yes.

MR. PEMBROKE: Move for admission of 6.

THE COURT: Any objection to number 6?

MS. PEEPLES: No, Your Honor.

MR. HOLDER: No, Your Honor.

THE COURT: Exhibit 6 is admitted. Deed of easement November 1999. Deed of dedication it's called.

(Plaintiff's exhibit 6 was admitted into evidence)

Q. Now - -

THE COURT: So, it's actually to the Board of County Commissioners.

MR. PEMBROKE: Yes, sir.

THE COURT: Okay.

Q. If you would, would you show the Court where your house is located on this plat 2499? (Witness steps down and approaches the plat on the easel)

A. Right here.

MR. PEMBROKE: Alright, let the record reflect that he's showing an L-shaped designation that's on the right-hand side about the middle of the parcel, a little (unintelligible) on that side.

THE COURT: Right. And on plat 2499 and it's labeled house.

MR. PEMBROKE: Yes, it's labeled house.

THE COURT: Okay, I have my reading glasses on so I can see that. Go ahead.

Q. Can you show the Court where what your route of ingress and egress has been?

A. Going off of Dogstreet down (inaudible) and to the house.

Q. Okay.

THE COURT: You go down the panhandle lane and then you go sort of along the southside of the property?

A. Yes, right along the property lines this downhill portion and this is downhill to the house.

THE COURT: Okay.

Q. Alright, and had you always used that route?

A. Yes.

Q. Thank you. You can resume your seat. (Witness returns to witness stand) Now, since 1988, is it a fair statement that there have been times that your wife has also been owner of the property?

A. Yes.

Q. Alright, what is your wife's name?

A. Cheryl.

Q. Okay. And you've testified about the deed that you gave to the County, correct?

A. Yes.

Q. Other than that, have you ever sold or transferred the property to anyone else other than to the County Commissioners and to your wife?

A. No.

Q. And did you ever represent to the public at large that you owned all three parcels of 13 Dogstreet?

A. I don't know what you mean represent.

Q. Did you ever tell people you owned it?

A. Yes, I told my friends and family.

Q. Okay, what about anybody else that asked?

A. If they asked the contractors I had worked on the project, yes.

Q. Okay. And have you resided continuously on that property since 1988?

A. Yes.

Q. Did you ever - - Did you ever post the property?

A. Several times through the years.

Q. Okay, and when if you recall, when was the first time you posted the property?

A. Right after I purchased it.

Q. And can you tell the Court where and how you posted the property?

A. Yes, I put No Trespassing, No Hunting, signs up on several of the fence posts, trees, all points from the (unintelligible) mark is where I put No Trespassing signs up through the years.

Q. Alright, would that be on the perimeter?

A. Yes, the perimeter of the property.

Q. Alright. Of, which parcels?

A. 1, 2 and 3.

Q. Alright. Approximately at any given time how many No Trespassing, No Hunting signs would be posted?

A. Probably 20 to 25 at times.

Q. Were they conspicuously located?

A. Yes, at eye level.

Q. Now you said you posted it several times?
A. Yes, as time goes by the fade away, have several problems out there with delinquents tearing the signs down, defacing it, so I have to replace them with new signs.
Q. Is it a fair statement that at any given time you maintained approximately 25 signs?
A. Yes.
Q. How many signs are up now?
A. Probably 20 some. I have 6 coming down the lane.
Q. Over the years did you ever have people kicked off your property? Did you ever kick people off?
A. Yes, several - - Yes, I did.
Q. Alright, over what period of time since you've owned it?
A. Probably the first ten years where people were used to going back there doing what they wanted to do.
Q. And what would you tell them when you found them?
A. I would tell them it's private property. I appreciate you leaving and not trash on my property. I've had to pickup trash, beer cans, whatnot, chairs broken up.
Q. And on what parts of the property would you eject people?
A. Mostly down on Parcel 1, down along the creek.
Q. What about Parcel 3?
A. Well, that got trashed up when the development moved

it. They were using that for their dump and unwanted construction supplies.

Q. Alright, and, when they were developing Stonecrest, when were they developing Stonecrest?

A. I think '17, 2017, sir.

Q. And what was the condition of Parcel 3 in 2017?

A. It was totally grownup. I let it go back to nature.

Q. Was it passable then?

A. Barely, barely, you could walk through rose bushes and vines and stuff, trees.

Q. At that point in time was there any visible sign of a roadway or a lane over Parcel 3?

A. Not that I could acknowledge.

Q. Okay. Now, since you've owned the property, have you paid property taxes?

A. Yes.

Q. And what portions of the property have you paid property taxes?

A. 1, 2 and 3 parcels.

Q. Okay. And have you consistently paid property taxes - -

A. Yes, I have.

Q. - - since 1988 on all three parcels?

A. Yes, I have.

Q. Approximately how often do you actually go up onto

Parcel 2? I'm sorry, Parcel 3?

A. Well, I drive by it every day but occasionally I go back there looking for, uh, pick up trash and indication of animals going through, deers and turkey.

Q. Did you ever put up a fence up on Parcel 3?

A. The whole thing was fenced in at one time. Somebody used to keep cattle over there on Stonecrest property for years. They had fencing up. Then since somebody removed it.

Q. Alright, so when you first bought it there was a fence?

A. Yes.

Q. Can you show the Court on Platt 2499 where that fence was? (Witness steps down and approaches the plat on the easel)

A. This individual still had cattle, fencing along the left-hand side all the way - -

MR. KLINE: Mr. Pembroke - -

THE COURT: Mr. Pembroke, can you back up so they can - -

MR. KLINE: Yes.

A. Where Stonecrest was, I don't recall his name, but he had cattle all through here all the way down to the end of our property so they had to maintain it with the cattle.

Q. Alright, so from Dogstreet Road it went over, it went over - -

A. Parcel 2.
Q. Parcel 2, the panhandle of Parcel 1.
A. And all - -
Q. And went north.
A. It enclosed the whole area. Cattle in there for years.
Q. Alright. It wasn't your fence?
A. No. Well, it might have been originally but who maintained but then fencing from up here disappeared.
Q. When you say up here you're talking about Parcel 3?
A. Parcel 3. Yea, back in 2020 it disappeared.
Q. Was it up from '88 to 2020?
A. It was somewhat up, yes.
Q. When you say somewhat, how, right along, running parallel to - - So, let me ask. Running parallel to Parcel 3 - -
A. Yes.
Q. Okay. How much of, percentage wise, how much of Parcel 3 contained the fence?
A. (Inaudible)
Q. Okay, now was this in '88 or was this in '20?
A. This was probably around '20 because it was still visible there?
Q. Alright, when you purchased it in '88, how much fence was there?

A. Approximately fifty percent but the guy who had his cattle here repaired that and just put new sections on it in front of the old section.

Q. Alright, would you, would you - - Is it your position that that fence was on the property line?

MR. KLINE: Objection.

A. I don't know.

THE COURT: Hang on.

MR. PEMBROKE: Hold on. When there's an objection made you have to stop until the Court makes a ruling.

MR. KLINE: Calls for a legal conclusion that the fence was on his property. He doesn't know. He's already testified he doesn't know unless he's going to testify that he's a surveyor.

THE COURT: Well - -

MR. PEMBROKE: Your Honor - -

THE COURT: Go ahead, Mr. Pembroke.

MR. PEMBOKE: I think I asked him if that, if it was his position that it was on his property.

THE COURT: But it was his belief that it was the property line but I'm not, I'll take it only for that's what he believed.

MR. KLINE: Understood, Your Honor. Thank you.

THE COURT: Objection is overruled.

Q. Alright, you can answer.

THE COURT: Do you believe the fence was on your property line, sir?

A. I couldn't tell for sure because, I mean, it just, there's no way to tell. It was so overgrown I couldn't see any pins that Frederick had put in.

THE COURT: Okay.

A. I have (unintelligible) was on mine or right on the property. (Witness returns to witness stand)

Q. Alright, thank you. Now, over the period of years have you had the property refinanced?

A. Yes, a few times.

Q. Alright, do you know approximately how many?

A. Probably three.

Q. Okay. And except for the Quick Claim Deed for Ms. Butts did any lender ever question your ownership of the property?

A. Not after I cleared that - - No, sir.

Q. During the time that you lived there since 1988, have you ever allowed anybody to use your property without your permission?

A. Not without my permission, no.

Q. You've had trespassers though?

A. Yes, I did through the years, yes.

Q. Alright, and what would you do when you found somebody trespassing on your property?

A. I would tell they they're trespassing and ask them to leave.

Q. Okay. Since you purchased the property have you continuously maintained it?

A. Yes, I have.

Q. Okay, and other than what you've already testified to are there any other examples that you have of what you did to maintain the property?

A. Mowing it regular, I mean, fixing the house up as it needs repaired and just general maintenance.

Q. Alright, and since you purchased the property have you continuously used it for your benefit and enjoyment?

A. Yes.

Q. And what ways have you done that?

A. Well put a pool up for the grandkids. We have picnics down there. Had family reunions there.

Q. If I've asked this I apologize. In the last several years, say four or five years, how often do you actually go up onto Parcel 3?

A. Occasionally once or twice a year to pick trash up. Sometimes more often. That blows over.

Q. Okay. I'd like to address your attention to when Stonecrest was being developed. Do you - - Do you remember encountering a gentleman who was surveying for Stonecrest?

A. Yes.

Q. Okay. Do you remember about when that might have been?

A. Maybe 2005 or something.

Q. Alright.

A. It was quite a number of years ago.

Q. Alright. Do you remember the person's name?

A. Not exactly.

Q. Okay. And where on your property was this individual?

A. It was right there on Parcel 1 at the curve approaching Parcel 3.

Q. Alright, would you come down and show the Court.

(Witness steps down and approaches the plat on the easel)

MR. KLINE: Could you repeat the question again?

MR. PEMBROKE: I asked him where on his property did you see this individual?

MR. KLINE: Okay.

A. Got two individuals. The surveyor and the pole guy. Approximately in this area here.

Q. Alright, that would be - -

THE COURT: Be the northeast corner, northeast edge of the panhandle. Is that fair?

Q. Yes, sir. What were they doing?

A. They were surveying this property over here.

Q. Over here to the west?

A. Yes, the Stonecrest property.

Q. Did you converse with either of them?

A. Yes, I did. They asked permission if they could come across my property because this was so overgrown than mine to come down here to set points. I granted them permission.

Q. Alright. And to your knowledge how long were they on your property?

A. Probably about an hour or so.

Q. Alright. Did - - You may resume. (Witness returns to witness stand) Did either one of those individuals indicate to you that they claimed to be owners of the property?

MS. PEEPLES: Objection.

A. No. No, sir.

THE COURT: What was the objection? Hang on.

MS. PEEPLES: Hearsay.

THE COURT: Overruled. He said they didn't say anything about that so.

Q. Did either one of them do anything to challenge your ownership of the parcels?

A. No, sir.

Q. Now, you remember your deposition was taken.

A. Yes.

Q. Okay. And do you recall - - Do you recall your

deposition?

A. Which one?

Q. Well, the one from January 12th of 2022.

A. Most of it, yes. I mean after six discoveries that's kind of; I get lost in the two or three hundred questions I was asked.

Q. Well, this was - - Alright.

THE COURT: January of this year. Do you remember the deposition?

A. At your house? Oh, sorry.

Q. Do you recall being in my office with me?

A. Oh, yes. Yes, your office, yes, sir.

Q. Okay. Now, do you recall being asked a question essentially, "Did you ever ask or receive permission from Ms. Butts to be on or use a portion of the property that you claimed to own?" Do you remember that question?

A. Yes, I do, but I was confused.

Q. Well wait a minute, let me finish please. Do you recall what your answer was?

A. I believe it was yes.

Q. Okay. Was that a correct statement?

A. No, I was confused on it due to so many questions, you know, it seemed like every other question was this and that and I got confused on it.

Q. Okay, but asking you here today did you ever ask or

receive permission from Ms. Butts to be on or use any portion of the property? What is your answer?

A. I did not. It was my property. I could use, do what I wanted with it.

Q. Okay. Since 2000 - - Strike that. Since 1988 to the Spring of 2020, did anyone challenge your ownership of any of this property?

A. Yes.

Q. Who?

A. Justin Holder.

Q. That happened in 2020?

A. 2020, Summer.

Q. Did anybody - -

THE COURT: Hang on. Let's go back. Listen to the question a little more clearly okay.

A. Okay, I'm sorry.

THE COURT: Ask it again.

Q. Alright. From the time you purchased the property in 1988 until you encountered Mr. Holder did anybody challenge your ownership of the property?

A. No, sir.

Q. Okay.

MR. HOLDER: I'm just going to object. We didn't - -

THE COURT: It's already been asked.

MR. HOLDER: Okay.

THE COURT: Overruled.

Q. Alright, directing your attention to the Spring of 2020, did there come a time when you became acquainted with Justin Holder?

A. Yes.

Q. Okay.

THE COURT: Spring of 2020 did you say?

MR. PEMBROKE: Yes, sir.

THE COURT: Okay.

Q. And would you describe for the Court how you became acquainted with him?

A. I was on my property at the garage I heard equipment running backup alarm which I recognized so I rode up my lane in my Ranger and I observed a piece of equipment going back Parcel 3.

Q. Here, would you come down and show, show us? (Witness steps down and approaches the plat on the easel) Let me get out of the way and stand over here.

THE COURT: Thank you, sir.

A. I was back at the house when I heard equipment running backup alarms which I know what they are.

THE COURT: Is the backup alarm the beep beep beep?

A. Beep, beep, yes, sir.

THE COURT: Got it.

A. Yea. I said that sounds awful close, which it was,

so I got in my Ranger, rode up here with my dog and observed a guy running up track machine tearing brush.

Q. Alright, can you point to - -

A. Parcel 3 about halfway up here. And I observed another guy with a chainsaw cutting trees. I thought, what are you all doing? Oh, we're clearing. I said who told you to do this? They said Justin Holder. I said where's he at? Oh, he's back there. I said go get him and shut down right now. And I guess they called and he come up there eventually. And I said what is going on. I'll show you a paper. I couldn't read it. I didn't have my glasses. He said I got a right of way through here. I said not on my deed you don't. I said you need to shut down right now. I think he had a DNR guy there too with him.

Q. Was there damage done to your property?

A. Well, they started clearing and pushing trees down, cutting trees down, making a path.

Q. Had you previously given permission for Mr. Holder to do that?

A. Absolutely not.

Q. Had you ever met Mr. Holder before?

A. That was the first time.

Q. Okay.

THE COURT: Have a seat. (Witness returns to witness stand)

Q. And - -

THE COURT: Let's wait for the next question.

Q. When you told him that when you said to him you don't have a right of way across my property, what was his reaction?

A. He showed me a paper that I couldn't read it was blurred up and in tiny writing. And I said, well, let me go back to my house and get my deed and get my glasses and let me look at this, which I did. And then I met him up on Uncle Eddie's property to discuss it.

Q. Alright, that's on Antietam Drive?

A. Yes.

Q. Okay. And what happened during that discussion?

A. Well, he's still telling me he's got a right of way through it and I'm telling him not on my deed you don't. So, then we walked up the lane from his property up through several other people's property and went on Parcel 3.

Q. When you say other people's property - -

A. Yea, at Stonecrest, the DNR property, the City property off of Antietam Drive.

Q. Okay. How long did this take?

A. Probably a half hour after I initially met him.

Q. And were you able to convince him that he did not have a right of way over the property?

A. No.

Q. Now, what action, what action did you take, if any, on learning that he claimed the right of way?

A. I got in touch with Chris Joliet who had previously prepared the deed title.

Q. Okay. Did you take any action on the property after you had your conversation with Justin Holder?

A. Eventually I cabled my driveway off so he wouldn't have access through my Dogstreet exit.

Q. During your conversation with him, did he indicate his intention to continue to come onto your property?

A. Yes, he did.

Q. Do you recall - - Do you recall exactly what he said?

A. Not exactly no, but he said, he kept trying to reiterate that I got a right of way through here, here it is on this paper.

Q. Did there come a time when you were made aware of Defendant Deena Holder's and Uncle Eddie's claim to have a right of way over the property?

A. As time went by, yes.

Q. Okay, do you recall how you became aware of that?

A. I believe I received a paper where they were stating that they had a right of way through there also.

Q. Did you have any conversations with Mrs. Holder about it?

A. We talked one time in the wintertime. I heard she was a lawyer at the end of the lane observing. We had a brief conversation. That was it.

Q. Do you recall the content of the conversation?

A. No, I just asked her what they were doing and they were standing out there looking up the lane for - - I still had the cable up. And they said they were just observing the property. And I couldn't really see who they were because in the wintertime everybody had clothes, masks on.

Q. Alright. Was that the only contact you had with her?

A. Yes. The one time.

Q. Other than - - Well strike that. Was there another legal proceeding prior to the filing of this case that you were involved in involving the property?

A. I don't recall. This was the only dispute we have had.

Q. Do you recall a peace order proceeding?

A. Oh, yes, yes.

Q. And where was that conducted?

A. At the other courtroom.

Q. Okay, are you referring to District Court?

A. District, yes, sir.

Q. Alright. And do you recall the outcome of that case?

A. I believe everything was denied on my part.
Q. Okay. Did Mr. Holder also file for a peace order in that case?
A. Yes.
Q. I'm sorry?
A. Yes.
Q. Alright. What was the resolution of his request?
A. Denied.
Q. Alright.
THE COURT: So, there were peace orders both ways?
MR. PEMBROKE: Yes.
THE COURT: Both denied?
MR. PEMBROKE: Yes, sir.
Q. Did Mr. Holder indicate after that hearing that he intended to continue to go onto your property?
A. I don't know for sure but he did. I saw him there several times.
Q. Alright, he actually did go onto the property?
A. Yes.
Q. Okay. Approximately how many times?
A. I can't see that portion from where I live but I mean it was at least one time we had a discussion when he had his party there, he came down the lane with a guy with a camera.
Q. Well, when you say he had his party there would you,

would you describe what happened?

A. He advertised to have a party back at the Uncle Eddie's and said to, to access the property to come down and come through 13 Dogstreet Road. So, then I had a cookout at the end of the lane and turned people away.

Q. Had he discussed that with you before he advertised it?

A. No, he put an advertisement on the internet and I could see if somebody drove back my lane filming it.

Q. Did you give him permission to do that?

A. Absolutely not.

Q. Did you have, did you have a discussion with him about it after it happened?

A. During the day he came down. Like is said he came out to the end of my lane and then invited me out there. I said no way I'm going back there.

Q. It was after the denial of the Peace Order that you filed this claim?

A. Yes.

Q. Okay. Mr. Young, is it your position that you are the title holder of Parcels 1, 2 and 3 of 13 Dogstreet Road?

A. Yes, I am.

Q. Okay. Is it also you position that there is no right of way easement or access over Parcel 3 for any of these Defendants?

A. Yes.

Q. Alright. If I might have just a second, Your Honor?

THE COURT: Yes. And counsel, so that you know, if Mr. Pembroke is finished with his initial examination, we're going to a quick break. But take your time Mr. Pembroke.

MR. PEMBROKE: Needless to say, Your Honor, this case has had a lot of paper.

THE COURT: I understand. Take your time.

MR. PEMBROKE: I have no further questions.

END OF DIRECT EXAMINATION

THE COURT: Okay. Let's take five minute comfort recess, okay. Mr. Young?

MR. YOUNG: Yes, sir?

THE COURT: You're still going to be a witness when we come back and you're still under oath, okay. During the break, I do not want you to discuss your testimony with Mr. Pembroke or anybody else, do you understand?

MR. YOUNG: Yes, sir.

THE COURT: Let's take five minutes or so.

(Whereupon at 10:31 court was in recess and resumed at 10:40, with the following occurring in open court:)

THE COURT: We're back on the record, Jeffrey Young versus Justin Holder, et. al., C-21-CV-20-371. Mr. Young, you are back on the witness stand. You are under oath. How is the Defense handling cross-examination?

MS. PEEPLES: Your Honor, preliminary I'm going to go first but I just had a conversation with Mr. Pembroke.

THE COURT: Yes.

MS. PEEPLES: I'm trying to be expeditious in this trial and to the extent that I don't have to recall Mr. Young later in the case, counsel agreed that I could step slightly over the scope of the direct testimony. I'm trying to just be economical so to speak.

THE COURT: Understood. Mr. Pembroke?

MR. PEMBROKE: Your Honor, I would not contemplate an objection based on exceeding the scope of Direct. However, there could be other objections based on relevance or whatever else.

THE COURT: Okay. And we'll see how far over the scope we go so.

MS. PEEPLES: I'm trying to just be economical for the Court.

THE COURT: I appreciate what you're thinking. I appreciate that very much. Do we expect that each Defendant is asking questions or have you all decided that there will be one, one set of cross-examination from one attorney or from Mr. Holder or all three of you, or are you doing the primary for this witness and then there may be some follow-up?

MS. PEEPLES: Your Honor, I'm doing the primary with

respect to Deena Holder.

THE COURT: Okay, fair enough. Alright, everybody have a seat.

MS. PEEPLES: May I see the exhibits please?

THE COURT: I have number 2.

MS. PEEPLES: May I approach the witness, Your Honor?

THE COURT: Yes. And I have number 2, just in case you need it. That's the plat.

CROSS EXAMINATION

BY MS. PEEPLES:

Q. Mr. Young, you previously identified the document that I'm showing you that has been introduced to the Court as Plaintiff's exhibit 1. Is that correct?

A. Oh, I'm sorry, say again.

Q. You previously identified the document that I just handed to you that's been admitted into evidence as Plaintiff's exhibit number 1, is that correct?

A. Yes.

Q. And is that your deed by which you acquired these parcels?

A. Yes.

Q. Turning your attention to the second page of that deed, may I show you where I'm referring? If you'll direct your attention to the first paragraph at the top of the page please. Can you please read for the Court the very last

sentence in that first paragraph?

A. It says, "land is conveyed subject to and together with any and all conditions, restrictions, easements or right of ways recorded applicable therein."

Q. So, is it your understanding that when you acquired the land to buy that deed in 1988 that that sentence pursuant to what you (unintelligible) there could have been encumbrances or other rights of way on your property?

A. I don't see where it says anything pertaining to the right of way on Parcel 3 though.

Q. But it just said that you're acquiring all these parcels along with any encumbrances, rights of way or any other things in the record of that title, is that correct?

A. Yes, I understand that. But I do not read where it says any right of way on any parcels.

Q. Now, Mr. Young, you stated that you have maintained this property all three parcels since 1988, is that correct?

A. Yes.

Q. And you described the condition of the Parcel 3 as being grownup with a lot of trees, is that correct?

A. Yes.

Q. Have you ever had any discussions with any person about use of Parcel 3?

A. Any pers - - about the use?

Q. Yes.

A. My use or anybody else?

Q. Anybody else's use of Parcel 3.

A. Just with Justin Holder who wanted to have, he said he had a right of way through there. That's the only discussion pertained to Parcel 3.

Q. Do you remember when you did discovery in this case?

A. Which one of the six ones?

Q. Um, in this case, my client, Ms. Holder sent you interrogatories. Do you recall receiving interrogatories by which you answered them and signed them under oath?

A. After six of them I'm pretty well mixed up about what was on what.

Q. Why don't I do this. Can you mark this as Defendant's - - Do you want them chronological, Your Honor, or just all together?

THE COURT: Start at 1.

Q. What I've been showing you that I've marked as Defendant's exhibit 1, can you take a look at these please? Thank your time and read them please.

(Defendant's Deena Holder's exhibit 1 was marked for identification)

A. Read all of them?

Q. Uh, please.

THE COURT: What was the question? I'm sorry.

MS. PEEPLES: I'm going to ask him about his answers to interrogatories. I want him to read them first so that he refreshes his recollection, Your Honor.

THE COURT: Mr. Pembroke, is there going to be any suggestion that these are not his answers to his interrogatories?

MR. PEMBROKE: No.

THE COURT: Okay. Ms. Peeples, let's move forward.

Q. Mr. Young, is that your signature on the last pages of these documents?

A. Yes, it is.

Q. And you signed these documents under oath?

A. I believe I did, yes.

Q. If you'll turn your attention to page 7, Interrogatory number 14 please. That interrogatory states, "If you contend that the right-of-way described in the deed recorded at liber WMcKK6 folio 363 the Wagon road right of way has been lost, abandoned, relinquished, released, adversely possessed or otherwise extinguishing any matter whatsoever set forth each and every reason it has been extinguished and identify each and every fact upon which you rely to make such a contention. Attach to your answer copies of any and all documents that support such a contention." In the answer to that you indicate no right of way is described in that document only a right of use.

A. For the deed.

Q. For the deed. So, you're acknowledging that there is a right of use to the road?

A. It wasn't established there was a road though. It wasn't in my deed that there was any right of way or road through Parcel 3.

Q. So, what then do you mean when you say right of use?

A. For me to use it as I saw fit.

Q. Okay. This interrogatory also asks you for any evidence that anybody abandoned a right of use, relinquished and you didn't put down any, anything in this answer to indicate that you have any evidence of any abandonment of any right of way or right of use, did you?

A. Which question is that?

Q. Number 14.

A. So, say again.

Q. You have sitting here in court today and based upon this answer that you've put forth in your Answers to Interrogatories you have zero evidence that anybody abandoned any right of way or right of use, is that correct?

A. This says nobody has the right to use it except me.

Q. Your answer says there's no right of way described in that document only right of use. That question asked you for information as to any, as to whether anybody, if you have any evidence of anybody presenting any evidence to you or

anyone else that the right of way or a road or anything through Parcel 3 was abandoned. Do you have any evidence sitting here today that such - -

A. You mean from Justin Holder saying he had a right of way from 1872?

Q. Yes. Has anybody - - Do you have any evidence that anybody abandoned the right of way sitting here today?

A. You keep saying right of way. It hasn't been established there was a right of way. It was just a right to use.

Q. Well, you say right of use. Let's assume for fact that you have a right of use, a right to use, because you mentioned it, these are your words. Do you have any evidence that anybody abandoned that right of use?

A. No, I didn't do it. I didn't abandon it.

Q. Do you have any evidence that anybody else extinguished that right of use?

A. There's nobody else's name on the deed for that portion of property so.

Q. Do you have any evidence at all that if there were a road there that anybody decides to terminate it?

A. No, I don't. I mean.

Q. Turning your attention to Interrogatory Number 18 at the bottom of page 8 please. It states, "If you contend that any portion of the Wagon road right of way was not in use by

any person for any continuous period greater than one year, from 1872 to the present, identify each and all periods of non-use and identify any and all evidence there of and any and all witnesses capable of providing testimony of each and every period of non-use." And you state, "The property known as Parcel 3 has not been used since 1988 by anyone other than myself, family and invitees. No one else has been authorized to use that property." Sitting here today, do you have any evidence that the property and or this wagon road and for purposes of whether it's a licensed or right of use or right way, we'll get to that later, do you have any evidence that it was never used as a road by anybody prior to the time that you took the title to the property?

A. No, I can't speak for something that I don't know if it got used before I purchased it. I have no knowledge of that.

Q. So, had you ever talked to any neighbors or anybody that lived in the area as to whether the alleged right of way, and again, I'm using my terms of art here understanding that there's a legal distinction between them. But do you have any - - Did you ever make any investigation as to whether that alleged right of way was used or not used or anything?

A. That I personally make any investigation? No. My lawyer may have.

Q. Did you talk to anybody in the town of Keedysville that might have owned property around that, around that alleged right of way as to whether or not the property was being used or not?

A. Some old man back in ’88 said - -

MR. PEMBROKE: Objection.

A. You know, it’s hearsay so.

THE COURT: Hang on. An old man in 1988 said something is not very descriptive and not very articular so objection is sustained.

A. That’s the only knowledge I’ve found.

THE COURT: Okay. That’s it.

A. Okay.

MR. PEMBROKE: When it’s sustained that means you do not have to answer.

A. Okay.

Q. Do you know whether the railroad has a right of way through there, through Parcel 3?

A. No, it’s not even close.

Q. Do you know whether the railroad has any right of way through any of the parcels?

A. I know very little about a railroad. It borders one side of my property. That’s all I know.

Q. Is it fair to say then that you have zero knowledge as to whether or not the alleged right of way in question in

this case was never used as a road or an access for any other property prior to the time that you took title in 1988?

A. I have zero knowledge of it.

MS. PEEPLES: I move Answers to Interrogatories into evidence as Defendant's 1.

THE COURT: Any objection?

MR. PEMBROKE: No objection.

MS. PEEPLES: Thank you, Mr. Pembroke.

THE COURT: Answers to Interrogatories entered as exhibit, entered and admitted as Exhibit number 1 for Deena Holder. Mr. Clerk, we're going to separate out the Defendants for exhibits.

(Defendant Deena Holder exhibit 1 was admitted into evidence)

CLERK: Yes, sir.

THE COURT: Okay. So, Mr. Kline, when you have exhibits you're going to start at number 1 for Uncle Eddie's.

MR. KLINE: Yes, sir.

THE COURT: And, Mr. Holder, you'll start as Justin Holder number 1.

MR. HOLDER: Yes, Your Honor.

THE COURT: Okay.

Q. Mr. Young, do you recall being deposed in another case in Washington County about the existence of a road or a

right of way through your property?

A. Any other case?

Q. Yes, not yours but - -

A. Pardon?

Q. Did you give deposition testimony in any other case in Washington County about a right of way or other property?

A. I had, uh, Ben Estes case, yes.

Q. And that would be Case CV-21-430, Benjamin Estes versus Justin Holder?

A. Yes.

Q. Do you recall you had your deposition taken on September 16, 2021?

A. Yes.

MR. PEMBROKE: Objection, Your Honor.

THE COURT: What's the objection?

MR. PEMBROKE: Your Honor, this purports to be a deposition of a party taken in another action. I was not - - I was not counsel in that so I did not have the opportunity to be present or to participate in that. I haven't even seen a copy of this transcript of this deposition. So, I don't believe this is proper line of inquiry in this case.

THE COURT: Is your intention to impeach the witness based on something he's already testified to or are you using it to confirm something he's already testified to?

MS. PEEPLES: I'm using this to confirm a difference of

something that he previously testified to inasmuch as it relates to - -

THE COURT: Confirmative difference?

MS. PEEPLES: Confirmative and impeach slightly.

THE COURT: So, you're impeaching?

MS. PEEPLES: I am impeaching.

THE COURT: Okay. What testimony did he just give that you believe that will be impeached by that deposition?

MS. PEEPLES: Um, Mr. Young confirmed the existence of a road that dead-ended at his property.

THE COURT: Let me see it. Where am I looking?

MS. PEEPLES: Uh, the highlighted, if you go down to like around line 13 down, Your Honor. I'm sorry - -

THE COURT: That's okay.

MS. PEEPLES: I can provide the whole transcript, Your Honor, if you need it.

THE COURT: Well, this goes to the content of the conversation he had with Mr. Holder the day that the bobcat and the chainsaw were out there, correct?

MS. PEEPLES: Correct, and it also goes to - - It also goes to, Your Honor, that fact that Mr. Young has testified that the property was all grown-up.

THE COURT: Okay. Mr. Pembroke, do you still object?

MR. PEMBROKE: I do.

THE COURT: And your objection is?

MR. PEMBROKE: Same objection.

THE COURT: What, that you weren't counsel at the time?

MR. PEMBROKE: Yes, Your Honor. And that I'm just seeing this - - I'm just seeing this testimony, this purported testimony for the first time right here.

THE COURT: Why wasn't this provided in discovery?

MS. PEEPLES: Your Honor, this was - -

THE COURT: Sit down Mr. Holder. Sit down Mr. Holder.

MS. PEEPLES: Your Honor, this was identified in our pre-trial statement as any and all depositions obtained of any witness prior to the, in any case in the pretrial statement. This was, this is testimony.

THE COURT: Why wasn't it provided in discovery?

MS. PEEPLES: I don't know if it was actually, Your Honor.

THE COURT: Okay. Did you receive it in discovery?

MR. PEMBROKE: I don't believe so.

THE COURT: Did you have interrogatory request for production of document for prior depositions to your knowledge?

MR. PEMBROKE: Probably not.

THE COURT: Okay. I'm going to allow it because it does, it is about the discussion that Mr. Young and Mr. Holder had on that day that the bobcat and the chainsaw were out there and my reading of it is it is slightly different

than what Mr. Young previously testified to. So, I will allow it.

MS. PEEPLES: And, Your Honor, court's indulgence. This, it's come up, I was not planning to introduce this in my case in chief. This comes up as a rebuttal in the testimony used today.

THE COURT: Fine. You may rebut.

Q. Mr. Young, do you recall you testified earlier that you had a conversation with Mr. Holder the day that the bobcat came to Parcel 3?

A. Yes.

Q. And you recall that you, Mr. Holder shows you a deed claiming to have a right of way through your property, correct?

A. He showed something I couldn't read it. It wasn't visible to me. I didn't have my glasses with me.

THE COURT: He said he didn't have his glasses.

Q. Said you didn't have your glasses. But then you said that you went back to your house, you took a look at your deed, and after you had the conversation with Mr. Holder?

A. Yes.

Q. Do you recall telling Mr. Holder that or talking about a road with Mr. Holder during that conversation?

A. Yes, I do.

Q. And did you tell Mr. Holder that that road had been shut down years ago?

A. I don't recall telling him it was shut down, no.

Q. Did you recall telling Mr. Holder that the road dead-ended at your property?

A. I don't recall. I mean after six discoveries I kind of it all jumped together and I don't, you know, I can't recite, you know, the three answers I gave to three hundred different questions off the top of my head.

Q. So, if I were to refresh your recollection by reading your prior testimony, you were questioned at deposition on September 16, 2021. Question was asked, "Do you remember anything about it meaning your conversation with Mr. Holder?" You said, "Just that you had met up there clearing the property and we had discussion. I don't recall exactly what it was about just whether or not you had the right to do that." And the question was asked of you, "Did you talk about a road?" And you said, "We discussed something about a road." Then the question was asked of you, "Did you tell me you shut that road down years ago?" Your answer was, "No, I didn't shut it down. It was dead-end. It ended." Mr. Holder then asks you, "Where did it end?" And you answer, "Where the metal stakes were at the end of my property."

A. It was my road where I mowed. That was pertaining

to my road where I mowed and kept it clean for several years.

Q. So, the road that you mowed and kept clean was not grown-up and overgrown?

A. Not at that time, no. I let it grow up after a while. I got tired of mowing it. I had other things to do.

MS. PEEPLES: Move this exhibit as Defendant Holder, Deena Holder, number 2.

THE COURT: Any objection?

MR. PEMBROKE: No objection.

THE COURT: Okay. It will be admitted as Deena Holder number 2, that his, the deposition of partial transcript of the deposition of September 16, 2021.

(Defendant Deena Holder exhibit 2 was marked and admitted into evidence)

MS. PEEPLES: And if Your Honor wants the full one I can provide.

Q. Mr. Young, you testified on direct that you had no, maybe one interaction with Mrs. Holder, is that correct?

A. Yes.

Q. Did you ever discuss any road or right of way or right of use with Mrs. Holder?

A. I can’t recall to tell you the truth I mean this thing has been going on for two years. I’ve talked to these people hundreds of times. I mean, we discussed different

subjects.

MS. PEEPLES: I have no further questions.

END OF CROSS EXAMINATION BY MS. PEEPLES

THE COURT: Okay. Mr. Kline. Deferring to Mr. Holder.

MR. KLINE: I believe so.

THE COURT: Okay. Go ahead Mr. Holder.

MR. HOLDER: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. HOLDER:

Q. Good afternoon, Mr. Young. When you first moved into the property, Mr. Young, were any of the neighbors cows crossing into the property where you had holes in his fences?

A. Yes, occasionally.

Q. Were they getting into the house?

A. No. They were getting out on the road.

Q. Oh, okay. By Dogstreet Road?

A. Yes.

Q. Okay. And that agreement you made with the County and Thomas Davies that it was Exhibit 3, I believe earlier, folio 2006, you dedicated 450 square feet to Washington County and that's part of, that's part of Parcel 2 on Exhibit 3?

A. It appears to be out in the road.

Q. And is it your position in this litigation you wish to have the Court enjoin us from using that portion of

Dogstreet Road?

A. What is that? Say again?

Q. You've asked - - Are you aware on your Complaint, part of your request for relief that you enjoin us, Defendants, from the use of that public road?

A. I don't understand the question.

Q. Do you understand - -

THE COURT: Hang on a second Mr. Holder.

MR. HOLDER: Okay.

THE COURT: Unless Mr. Pembroke tells me otherwise I firmly believe that this Plaintiff is not telling the Defendants they cannot use Dogstreet Road.

MR. PEMBROKE: We are not.

THE COURT: That answers that question. You're allowed to drive on Dogstreet Road. I don't think that's ever been his point in this case. But Parcel 2 is bigger than just what that county dedication was. Do you understand what I mean? You look a little confused. I want to be sure you and I are talking the same language here.

MR. HOLDER: Uh, can I ask the witness a question that - -

THE COURT: No. I want to make sure you and I are clear about what I just asked Mr. Pembroke. Your questions to Mr. Young were, and it's not an unfair question, I get you. Is he saying you are not allowed to use Dogstreet Road? That

was your question. And he didn't understand the question. I think the reason he didn't understand the question is it's, that's not at all what he's saying in this litigation and I just asked Mr. Pembroke is Mr. Pembroke and his client taking the position that the Holders or anybody involved with Uncle Eddie's is not allowed to use Dogstreet Road and the answer is no, that is not at all what they're saying in this litigation. Do you understand? So, it's not Dogstreet Road that's at issue.

MR. HOLDER: I understand Mr. Young's answer but I object that his complaint does state that specifically. But I'm going to move on.

THE COURT: Well, whether it says that or not, Mr. Pembroke has admitted to me that they are not taking the position you or Deena Holder are not permitted to drive on Dogstreet Road. That's a county road. Okay.

MR. HOLDER: Thank you.

THE COURT: Okay. I just didn't want to waste a lot of time on something that I think it's probably not at issue.

Q. In paragraph 8 of your Complaint, you state that there are a controversy between you and the Defendants. Could you explain what that controversy is?

A. Between me and - -

THE COURT: Hang on. Do you have a copy of the Complaint? I would prefer if you're going to ask a witness

to look at a document or think about a document that they have the document in front of them, okay? So, Mr. Holder, you may approach the witness. You may approach. Hand him the document. Mr. Young, flip to the last, flip to page 5. Tell me that's your signature there above Mr. Pembroke's signature.

A. Yes, sir.

THE COURT: Flip to page 2. Please look at paragraph number 8. Read that sentence to yourself. You got it?

A. Yes.

THE COURT: What's your question about paragraph 8, Mr. Holder?

Q. If he could explain the controversy specifically to me.

A. Well like we had some conversations you say one thing is black I say it's white and you're saying you have ownership and or right of way through Parcel 3. I say you do not. That's our controversy.

Q. Have I ever told you that I have a right of way through Parcel 3?

A. Your tried to buy it several times.

Q. Okay. But did I ever tell you that I was asserting the right of way for myself for Parcel 3?

A. I don't recall. You just kept saying you had a Quick Claim Deed for it.

Q. When did I tell you I had a quick claim deed prior to filing that complaint?

A. The day we had up there on the property on Parcel 3. You showed me a paper you said you had a Quick Claim Deed on my Parcel 3.

Q. When I met you on the property you drove over to Uncle Eddie's you testified to earlier and then we walked up several neighbor's backyards. Do you know who those neighbors were?

A. The only one I know was the Morrals and, and Eckel.

Q. Mr. Ickes?

A. Yeah, I don't think his, yeah Ickes. We walked.

Q. When we walked the property line do you remember if we walked on the stake on the west side or the stake on the east side of the property at the north end?

A. We didn't walk through any Stonecrest property it's all fenced in.

Q. Did we walk over a rock pile?

A. Yes, we did.

Q. Did anybody come out and tell us to stop for trespassing?

A. Not at that time, no.

Q. Are you aware of any objection he town of Keedysville has made to a right of way over their property?

MR. PEMROKE: Objection.

THE COURT: He's just asking whether he's aware. Over - -

MR. PEMBROKE: Respectfully, Your Honor, the only way I would say he would be aware is if somebody involved with Keedysville communicated it to him. So, that would make it hearsay.

THE COURT: Sustained.

Q. Are you aware of any public documents that's Keedysville objecting to a right of way over their property?

A. Not that I know of.

Q. You aware any public documents that people in Stonecrest are objecting to a right of way of their property?

MR. PEMBROKE: Objection, Your Honor. Your Honor - -

THE COURT: There's an entire lawsuit about that Mr. Holder? I don't mean to jump in here but - -

MR. PEMBROKE: If we're not - - We aren't - - Your Honor, this suite, we're not claiming any property that belongs to Stonecrest or Keedysville in this suit.

THE COURT: Sustained. Sustained. Mr. Holder, if you want to you're allowed to sit down if you wish. I'm okay if you stand but I'm okay if you sit too. I don't want you to think that you have to do all of this off of memory. I want you to have your notes, okay.

MR. HOLDER: (Inaudible)

THE COURT: That's fair, I just want you to be

comfortable.

MR. HOLDER: Certified public record.

THE COURT: You're going to have it marked. Call it Justin Holder 1.

(Defendant Holder exhibit 1 was marked for identification)

MR. HOLDER: May I show it to the witness?

THE COURT: Yes, you may.

Q. Mr. Young - -

A. Okay, now what is this?

THE COURT: That's marked as Justin Holder, number 1. Just take a quick look at it. Mr. Holder may have some questions about it. Okay, go ahead Mr. Holder.

Q. Mr. Young, is that the document I handed to you in the Spring of 2020 when we first me?

A. I thought you handed me something with a plat or something on it too. That's the one I recall. You may have handed this to me I don't recall. I don't recognize any names on it.

THE COURT: His answer is he does not recall. Next question.

A. If I would have received it, it would be in possession of a lawyer so I don't know.

THE COURT: Next question. He says he does not recall.

MR. HOLDER: I move to admit this.

MR. PEMBROKE: Objection.

THE COURT: No.

Q. Do you recall showing Christine Morral that document?

A. I don't recall the document per se. I mean we passed a stack of five foot tall papers. I don't recall them individually.

Q. Um, May 29, 2020, is that the day you remember as me being on the bobcat?

A. I don't remember a specific day but you weren't on it you had a worker on it.

Q. I didn't work on the bobcat?

A. Yeah.

Q. And after that day how many, how many days that summer did you see me up on Parcel 3?

THE COURT: This is the Summer of 2020?

MR. HOLDER: Correct.

THE COURT: Okay.

A. If your party was there you were out on my property that day. Probably went to the property with somebody with a camera videoing, I said get off my property it's private property.

Q. Did I leave?

A. Pardon?

Q. Did I leave?
A. Eventually.
Q. How many other times have you seen me up in Parcel 3?
A. None.
Q. Have I had people to drill a well come up to Parcel 3?
A. They left their signs sticking on my property. I cannot see from my house so you know the lay of the land like I do so. You know, I can't be somewhere that's (unintelligible) point.
Q. Have you ever met Lester Stotler camping on Parcel 3?
THE COURT: I'm sorry. Hang on. What was the name?
MR. HOLDER: Lester Stotler.
THE COURT: Lester Stotler.
A. No, no.
Q. Are you aware of anyone that's camped out on Parcel 3?
A. Not on Parcel 3, no.
Q. They were camping on Parcel 1 only?
A. The kids from Keedysville were yes. They partied down there.
Q. Do you know how they were getting to Parcel 1?
A. No, I have no knowledge just their trash reminded me

that they were there.

Q. So, you never saw the kids on Parcel 1 you just saw trash?

A. Not on that particular time no.

Q. Okay. Can you tell me any particular time where you specifically ran somebody off of parcel 3?

A. There were several people crossing from Stonegate across their property and kids going to school, which I didn't mind. And then several times boys would ride their bicycles back there and people just being nosy would drive back and look around.

Q. On Parcel 3?

A. No, on Parcel 1 to my house.

Q. I want to ask about Parcel 3 specifically. Have you - - Do you remember any specific instances where you ran somebody off of Parcel 3?

A. Just you.

Q. Just me. In 2020?

A. You, yes, and your workers.

Q. Did I come back to your house that night?

A. Yes.

Q. Did I again offer to enter into a maintenance agreement on Parcel 3 that night?

A. Yes.

Q. And you declined that offer?

A. Yes I did.
THE COURT: Say again?
Q. And I said and you declined that offer?
A. Yes, I did.
THE COURT: Just so that I'm clear for my, my notes, is this the May 29, 2020, day?
MR. HOLDER: Correct.
Q. This is on May 29, 2020, correct?
A. Yes.
Q. When we walked the property on May 29th of 2020, did you observe behind David Ickes house grass, ornamental bushes growing on what you believe is Parcel 3?
A. Yes, I did.
Q. Do you know how long he was mowing and maintaining Parcel 3?
MR. PEMBROKE: Objection.
THE COURT: What's the objection?
MR. PEMBROKE: Assumes facts not yet in evidence about Mr. Ickes mowing.
THE COURT: Sustained. Ask it a different way.
Q. Have you ever seen Mr. Ickes mow Parcel 3?
A. Yes.
Q. When did you see him mowing Parcel 3?
A. Summertime.
Q. Of 2020?

A. Yes.
Q. Did you ever see Mr. Ickes mowing prior to the summer of 2020?
A. No.
Q. Did you ever observe when you were up on Parcel 3 that it was a mowed piece of property on Parcel 3?
A. Yes, I did.
Q. Did you know that you weren't the one mowing it?
A. Pardon?
Q. Did you know that you weren't the one mowing it?
A. Yes, I think I knew I wasn't mowing it.
Q. Did you do anything? Did you go ask who was mowing Parcel 3?
A. I already knew.
Q. How did you know?
A. It was right behind our house. I saw him mowing it before.
Q. Prior to 2020, you saw Mr. Ickes mowing?
A. Approximately, yes.
Q. Did you all the police?
A. No, I did not.
Q. Did you approach Mr. Ickes at that time?
A. Yes.
Q. Prior to May 29, 2020?
A. At some point in time. I don't recall the exact

date.

Q. Was it prior to the time I took the bobcat and had my agents clear Parcel 3 or was it after that?

A. I don't recall.

Q. And what did you say to Mr. Ickes when he was mowing Parcel 3?

A. I said it looked good.

Q. Okay. Has anybody else in the Stonecrest neighborhood maintained portions of Parcel 3?

A. Not to my knowledge, no.

Q. Are you aware of the Larson's have a wall that's on what you believe is Parcel 3, a stonewall, flower bed?

A. I don't - -

Q. Uh, Mr. Ickes' and Mr. Blancato's neighbors (unintelligible).

A. It's not on my property.

Q. Okay. How much trash and debris that the Stonecrest developers dumped on Parcel 3?

A. Well, they piled dirt from putting patios in that you cleared with your bobcat and then I probably picked up four or five large garbage bags with a bunch of construction trash unbeknown to me who did it.

Q. Was it visible to the public?

A. My Parcel 3, no.

Q. With the trash that they dumped on - - If you walked

up through the Stonecrest Circle would it have been visible if they dumped trash on Parcel 3?

A. You couldn't see through the houses, no. It's on the backside.

Q. Was this after the houses were built?

A. Yes. And during.

Q. Which was approximately what time?

A. Around '17, '16, '17, '18. They worked on it for a while.

Q. Okay. Was there a time before that that they developed a sight of Stonecrest?

A. Back in 2005 or '6 after the survey.

Q. Did they push dirt on Parcel 3 during that time as well?

A. Not to my knowledge, no.

Q. For approximately how long did Carl Rinehart maintain cows on Parcel 3?

A. For several years.

Q. After you purchased the property?

A. Yes.

Q. When you say several could it be ten?

A. I don't think so. I don't think it was ten.

Q. Did Carl Rinehart repair the fence because you complained about the cows getting out?

A. He repaired, he repaired it due to his cow getting

out. He's responsible for them. The fence didn't. It was none of my concern except to keep people off my property.

Q. Did you ever have any argument with Carl Rinehart about his cows getting out?

A. Yeah, I had one discussion with him. I wouldn't say it was an argument. I called and told him they were out. And I said, aren't you responsible for these cows? If a car hits them you got to pay for the car. He said yeah.

Q. And were they getting at the holes of Parcel 3?

A. Yes.

Q. And were his cows coming onto Parcel 3, was that visible to the public?

A. No.

Q. If somebody was looking?

A. No. Not that I know of.

Q. If somebody was standing in the middle of his field and looked over Parcel 3 would they see the cows?

MR. PEMBROKE: Objection. Asked and answered.

THE COURT: Sustained. I'm not sure why it's relevant if somebody standing on Mr. Rinehart's field they're probably trespassing so.

Q. How about if somebody was standing down at Deena Holder's mother's house and looked up. Would they be able to see the cows getting out on Parcel 3?

MR. PEMBROKE: Objection.

A. No.

THE COURT: Stop there. Help me understand where Deena Holder's mother's house is. I'm just asking you. Where is - -

Q. Are you aware where Deena Holder's mother lives?

A. Yes.

Q. Could you explain to me where that's located?

A. It's on the other side of Stonecrest's driveway to the right there.

Q. Could you see Parcel 3 from Deena Holder's house?

A. No.

Q. What obstructs it?

A. The lay of the land. It's a hillside.

Q. Is Parcel 3 flat or is it on a hill?

A. It's on a crest up cliff. Totally flat.

Q. How wide - - How wide is Parcel 3?

A. Twelve foot to my knowledge.

Q. And when you mowed it did you mow the entire twelve foot wide strip?

A. No, I only mowed, I had mower thirty-six inches. And made like two paths of walking paths that I could access the wildlife and find mushrooms in the Fall or the Spring.

Q. So, you walked down to the north end of Parcel 3, which was where your two stakes are that you discussed earlier?

A. Did I walk down? Of course.

Q. How many times a year did you do that after you mowed the path?

A. At my own discretion, several times.

Q. And you stopped at the stakes the two iron stakes?

A. Yes. Those rocks were vicious to climb on.

Q. How far are the iron stakes, approximately, how far were the iron stakes away from what we know as the abandoned railroad?

MR. PEMBROKE: Objection.

THE COURT: Sustained. Counsel, be sure that we're not double admitting an exhibit. Mr. Holder, if it's the same exhibit that's already been admitted we can just use the one that's been admitted rather than doubling up, okay. I think he wants Deena Holder 1, correct?

MS. PEEPLES: Yes. Your Honor, I - -

THE COURT: Mr. Holder, why don't you go show Ms. Peeples that so we're sure that we're using the correct exhibit.

MR. HOLDER: I apologize just a little confusion.

THE COURT: That's okay, take your time.

MS. PEEPLES: And Your Honor, I apologize because I was trying to be expeditious in entering them.

THE COURT: That's fine.

Q. Mr. Young, can you review those answers to

interrogatories?

(Defendant Holder's exhibit 2 was marked for identification)

A. Is this the same one we just looked at?

THE COURT: Hang on a second. Hang on a second Mr. Young. What do you need Mr. Clerk?

CLERK: I need his number 1. It wasn't - -

THE COURT: Oh, I didn't admit it.

CLERK: It doesn't matter.

THE COURT: Okay, he still needs it.

MS. PEEPLES: It's right here.

THE COURT: Mr. Young, take a quick look through that document. The Clerk is going to hold that, okay, even though it's not admitted. If you choose to try to admit it later you're allowed to. But the Clerk has to have it even though it wasn't admitted. Do you understand?

MR. HOLDER: Yes. (Unintelligible)

THE COURT: But you may seek to try to put it in later.

Q. Okay, Mr. Young, is that your signature at the bottom of those interrogatories?

A. Yes, it is.

Q. Alright, and those are answers to Deena Holder's Interrogatories?

A. Yes.

MR. HOLDER: (Unintelligible)

THE COURT: Say that again?

MR. HOLDER: We got them crossed. She admitted mine.

THE COURT: Okay. I got it now. Okay. So, these are interrogatories, answers to interrogatories.

MR. HOLDER: Okay.

THE COURT: Okay, what are you asking him about that?

Q. On interrogatory number 4, it says, "Identify all persons who are likely to have personal knowledge of any use or possession of Parcels 2 and 3 and state the subject matter of the personal knowledge." And you listed several, about fifty some people?

A. Um hum.

Q. And do you remember us going over those in deposition on January 12th?

A. I don't think we went over totally everyone individually.

Q. Was there - - Did there come a time when we stopped going over everyone?

A. I think we did stop halfway through or something.

Q. And did we decide - - Did you assert the (unintelligible) a few people on this list that actually had personal knowledge of you being on Parcel 3?

A. There were several people that had visited the property but I didn't take everybody around to show them

every square foot you know that's unreasonable. You know the lay of the land.

Q. Would you be able to just look at this, the answers to number 4 and identify the people on that list that actually have personal knowledge that (unintelligible) Parcel 3?

A. My wife, Ben Estes, Mark Hutzell, David Hutzell, Russ Robinson, Esquire, Chris Morral, Scott Morral, Mary Ironside. You got outlined Christine Morral and Scott Morral.

Q. Are there any other - - Out of the people on that list which ones have personal knowledge that you being on Parcel 3?

A. Christine, Scott Morral.

Q. And what's their personal knowledge of you being on Parcel 3?

A. My property borders - -

MR. PEMBROKE: Objection.

THE COURT: Sustained. Hang on. Stop. Sustained.

Q. Is there anybody else on that list? There's a second page to that list. Is there anybody on that list that has personal knowledge of you being on Parcel 3?

A. Several of my friends, yes.

Q. I believe you testified in deposition of Bud Brashears and Crampton?

A. Yes.
Q. Is there anybody else on that list that you forgot when you were in deposition?
A. I may have, I mean this is hundreds of pages I've filled out. I don't recall specifically one by one. My memory is not that good. I mean - -
Q. But you do remember us going over them one by one in deposition, correct?
A. Not totally. We didn't go over every one because there was too many. We went through about half of them. Correct?
Q. And then do you remember me just asking you to identify the people with personal knowledge of you on Parcel 3 on that list?
A. I believe I did. I outlined the majority of them.
Q. Did you clarify that when you say you outlined the majority of them?
A. Well, the people - -
MR. PEMBROKE: Objection, Your Honor.
THE COURT: Overruled.
A. I need to answer?
THE COURT: Yes, I'm sorry.
A. Do you want me to identify people specifically, is that what you want?
Q. Yes. The specific people on that list that have

personal knowledge of your visible possession of Parcel 3.

A. Christine Morral, Scott Morral, Bud Brashears, Jeff Crampton, Harry Crampton, Phil Mose, Elaine Gleeson, Jim Proctor, Jim Twigg, Ann Rind, Brandy Wineberg, Jesse Downs, Jada Downs, Charlie Blancato, Chris Joliet, David and Erin Ickes, that's probably the majority of them that I told and shown the property to.

Q. And there's a question after that one, four is visible, five (unintelligible).

THE COURT: What number question do you know?

Q. Uh, question number 5. Yes, could you look at question number 5? Is the answer the same in question number 5 for the same people?

A. Okay. What's the question again?

Q. Are the same people you identified earlier as having personal knowledge on question number 4. Is it the same set of people on question 5?

THE COURT: What does question 5 ask Mr. Holder. Do you recall?

A. This identifies - - Question 5 doesn't pertain to any except license surveyor or attorney. I don't understand.

THE COURT: Hand him the document real quick. Mr. Holder, just read question 5 to me?

MR. HOLDERR: Identify each boundary survey metes and bounds description.

THE COURT: Okay.
MR. HOLDER: So, I apologize.
THE COURT: I think you may have the wrong question.
MR. HOLDER: I do, Your Honor. I apologize Mr. Young.
THE COURT: Take your time.
Q. We start back here on number 12 again.
THE COURT: So, we're back - -
Q. This is number 12 and the questions says that, "If you contend that your possession of Parcels 2 and 3 was visible state upon the facts in which you rely including but not limited to the time periods during which the facts purportedly occurred and the identity of each person having knowledge of such facts." Is your answer for that question is the same set of people that you identified?
A. Yes, it appears to be, yes.
Q. Okay.
A. I mean these are all people that have been on my property over thirty-four year span.
Q. On Parcel 3?
A. Anywhere they wanted to go. You got to go right by it to get to - -
Q. Were all of these people on this list on Parcel 3?
A. No.
Q. Okay.
A. The ones I previously specified.

Q. Okay. Interrogatory number 13, "If you contend it's your possession of Parcels 2 and 3 was open and notorious set forth the facts on which you rely, including but not limited to, the time periods during which the facts purportedly occurred and the identify of each person having knowledge of such facts." Is it the same set of people that you identified in your answer to question 4?

A. Yes, it is.

Q. Okay. And all of the people that you identified in your answer to question 4, these specific people, they've all been on Parcel 3?

A. No, not all of them. They've been on my property. It's all part of my property. That's the way I interpret the question. Not just specifically one part of the property.

Q. I'm going to ask you a little bit more specific. This is your answer to interrogatory number 14. Number 14 says, "If you contend it's your possession of Parcels 2 and 3 was exclusive set forth the facts upon which you rely, including but not limited to the time periods during which the facts purportedly occurred and the identify of each person having knowledge of such facts." And you gave another list of people.

A. Right. All these people had access my property through Parcel 2 and they went right by Parcel 3. So, all of these people have been on my property of Parcel 2.

Q. I understand. And I want to ask you specifically to Parcel 3 can you please name the people on that list - -

A. I just named them for you previously.

THE COURT: Hang on. Hang on, Mr. Young. Let him finish the question.

Q. Could you please tell me the people on that list that have actually been on Parcel 3?

MR. PEMBROKE: Objection. Asked and answered.

A. I previously answered that.

THE COURT: Hang on. Why is it relevant who's been on Parcel 3? If I'm standing on Parcel 1 and I can look at Parcel 3 does it matter that I take one step onto Parcel 3? They've been on his property. That's who he gave the answers for. The purpose of Answers to Interrogatories is so you know who to depose.

MR. HOLDER: Okay.

THE COURT: Okay. Sustained.

MR. HOLDER: I move to admit Exhibit 2.

THE COURT: Any objection?

MR. PEMBROKE: No objection.

THE COURT: Okay. Justin Holder exhibit number 2, which are Answers to Interrogatories are admitted.

(Defendant Justin Holder exhibit number 2 was admitted into evidence)

MR. HOLDER: Do you mind (unintelligible) here, Your Honor?

THE COURT: Take your time.

Q. Mr. Young the exhibit 4, the Quick Claim Deed from Jennifer Butts that your exhibit 4, the deed I'm talking about liber 1108?

A. I saw it earlier, yes. I don't know verbatim but I saw it.

THE COURT: Plaintiff's 4?

MR. HOLDER: Yes.

Q. Is that - -

THE COURT: Let the record reflect that the witness has Plaintiff's number 4 in his hands. Go ahead Mr. Holder.

Q. Does that exhibit of a Quick Claim deed? Did you acquire it from Jennifer Butts?

A. I'm sorry, say again?

Q. Is that an exhibit of a Quick Claim Deed you acquired from Jennifer Butts?

A. Yes, it appears to be.

Q. Okay, and did you know her to be the record title owner of Parcels 2 and 3 at some point?

A. Just Parcel 2 to my knowledge.

Q. Okay, do you have any knowledge that Jennifer Butts ever had title to Parcel 3?

A. Not to my knowledge.

Q. Do you know who the record title holder is to paper title of Parcel 3?

A. Yes, Jeff Young.

Q. Prior, prior to you, sir, do you know who owned it?

A. Harry Wickline.

Q. Do you know who owned, who you believe owned it prior to Harry Wickline?

A. None of my concern.

Q. Were you told when you bought the property by Chris Joliet there was a deed overlap to Parcel 3?

MR. PEMBROKE: Objection.

A. I found out about it - -

THE COURT: Hang on. Was Mr. Joliet his attorney at the time? Sustained.

MR. HOLDER: It was his expert witness, Your Honor.

THE COURT: Sustained.

MR. HOLDER: Okay.

Q. Did Mr. Joliet show you any title work when - - Did you review any title work prior to purchasing the property in 1988?

A. I reviewed it then in ’88.

Q. Did you review a Western Maryland Title Report from Western Maryland Title?

A. Yes.

THE COURT: Mr. Holder, before we keep going does he

need Exhibit number 4 anymore? I just don't want to lose them. If you want him to keep - -

MR. HOLDER: Let me ask him one question. Do you do organized, okay.

Q. On exhibit number 4, is there a clause that says being transferred together with all rights, ways, alleys, road, something along those lines that it's subject to? Maybe at the bottom of the deed?

A. Yes, I see it.

Q. Could you read that for the record please?

A. This (unintelligible) conveyed together with the subject to affordable covenants, conditions, restrictions, easements, limitation, right of way, streets, reservations and easements of records.

Q. And did you purchase that for three hundred dollars from Jennifer Butts?

A. Yes, I did.

Q. Is there a reason you didn't ask Jennifer Butts for a Quick Claim Deed to Parcel 3 as well?

A. To my knowledge it was a deed overlapping that's all I needed.

Q. On Parcel 2?

A. Correct. It already was deeded to me this was just to explain the deed overlap where it was mine.

THE COURT: Mr. Young, he's asking a different question.

He's not asking about Parcel 2. He's asking a out Parcel 3.

MR. HOLDER: Yes.

THE COURT: Why did you think you did not need a Quick Claim Deed to Parcel 3? Is that the question, Mr. Holder?

MR. HOLDER: That's the question, yeah.

A. Because it was on my title, it was on the deed and on the survey that I - - I didn't see anybody else's name that owned it on the Frederick Seibert plat.

Q. Would it be fair to say that because there was no note on the plat that said deed overlap in that area you didn't think you needed a deed to Parcel 3?

A. There was no deed overlap on Parcel 3. It was on Parcel 2 and there is no indication of any ownership on that plat except mine per the deed and the title I have it was also on there.

Q. On plat 2499 Exhibit 3, we're looking at are these, in this area where I'm pointing to in the very northwest corner of Parcel 3, there's some writing that says North 67 degrees thirty-five feet, 35 minutes 14 seconds west, 12.2 feet. Is that where the two iron stakes that we had been discussing are located to your knowledge?

A. I know where the iron stakes are. I don't recognize all your other terminology on that. I can't see it.

THE COURT: He's already said that he's not a surveyor, so.

MR. HOLDER: I was just trying to identify where - -

THE COURT: I feel that we have a lot of experts who are going to say things about those points and those stakes and possible pins and so it's probably better for them to testify to it.

Q. Do you know what these two lines, parallel lines twelve feet apart mean on this?

A. That's where the property line - -

THE COURT: Do you mean - - Hang on. Do you mean the vertical south to north lines there?

MR. HOLDER: The vertical south and north lines starting at the north 67 degrees and headed down.

THE COURT: I see it.

MR. HOLDER: And headed down to where the corner here is Parcel 1.

THE COURT: I see. Do you understand the question, sir?

A. No, I don't.

THE COURT: Okay. Ask your question again.

Q. Do you know what these two parallel lines represent?

A. Property lines. Parcels to my knowledge.

Q. So, do you believe that this thinner line was a property line?

A. No, I believe the line to the left is the property line.

Q. Okay, what did you believe - -

A. Indicating what where Parcel 3 is.

Q. Okay, what else indicates on here gives you an idea of where Parcel 3 may be?

A. I think it says Parcel 3, doesn't it?

Q. This writing here on the right side of that lighter line says Parcel 3? So, this lighter line what did you think it represented when you reviewed this?

A. Your fence line, I don't know. I'm not a surveyor. I go by what the plat says.

Q. Did you ever walk the property with the surveyor prior to purchasing it?

A. I told him I wanted pins in all the corners, yes it did. All the pertinent corners, which they did. And I put signs up.

Q. Okay, and does it look like this line to you, this thinner line, does it close off?

A. I cannot see that. I don't have no - -

Q. Why does Parcel 3 look different to you than Parcel 2 on this, on this drawing?

MR. PEMBROKE: Objection.

THE COURT: Sustained.

MR. HOLDER: Can you mark this as Justin Holder exhibit 3? May I approach the witness?

(Defendant Justin Holder's exhibit 3 was marked for

identification)

THE COURT: Yes, sir.

Q. I'm handing you some documents I'll proffer to you were produced to me. Can you take a look through those and see if you recognize them?

A. Do you want this back?

THE COURT: Yes. As he's reviewing that Mr. Holder you indicated that they were produced to you?

MR. HOLDER: These were Request for Production of Documents.

THE COURT: So, who did you receive these from?

MR. HOLDER: Um, Mr. Pembroke on behalf of - -

THE COURT: Okay, I just want to be sure.

MS. PEEPLES: Mr. Holder, what are we calling these?

THE COURT: This is Justin Holder exhibit 3.

MR. HOLDER: They are the production of documents associated with Deena Holder's set of interrogatories.

MS. PEEPLES: Okay.

A. Okay, what am I doing, what am I looking at?

THE COURT: Hang on. Let me see it please? Do you have a cop of this Mr. Pembroke?

MR. PEMBROKE: Yes, sir.

MR. KLINE: Your Honor, if I may interrupt briefly?

THE COURT: Sure.

MR. KLINE: Noting the time, it's quarter of twelve. I

don't think Mr. Holder is going to finish before noon time.

THE COURT: Right.

MR. KLINE: I'm sure that everyone would like to have lunch and or a break. I certainly would.

THE COURT: Yes.

MR. KLINE: Um, but Mr. Pembroke can go for days, I cannot. I was just wondering when the Court thought that they may want to break for lunch so that Mr. Holder can determine when to stop questioning, to pick a good time to stop questioning.

THE COURT: It may be very soon. So, I appreciate your comments there. Okay. Let's, let's take a pause for a second. Okay. Defendant's exhibit 3 roughly fifteen to twenty pages of documents. This is Justin Holder's exhibit 3 is roughly 20 pages of documents.

MR. HOLDER: Right.

THE COURT: Which, as I flip through them, appear to be a mix of different things. You know photocopies of what looks maybe like a tax record, maps from an atlas from Washington County, plat 10650. One page of an unsigned deed what appear to be Stonecrest plats with highlights, what appears to be Parcel 2, part of Parcel 1 and Parcel 3 with highlights, the right of way plat of Dogstreet Road, handwritten Dogstreet receipt, a contract of sale for Wickline to Young but only one page of it, at title report,

handwritten notes that I have no idea who they came from, a letter from Potomac Edison and a photo. Okay. Before I hear Mr. Pembroke's objection to this, this is too many individual separate documents that all have different requirements for admissibility all in one exhibit and I'm simply not going to allow this sort of an exhibit, okay. Alright, so, but, before we go on, I don't want to limit you. I think we should probably take a break for lunch, so that you can organize this a little bit better, okay.

MR. HOLDER: Okay.

THE COURT: And so that we can then at 1:00 have our discussion concerning subpoenas and then we will continue with Mr. Young. Let me talk to the Clerk here for a second, okay. Mr. Clerk, since this has been marked, I'm not accepting it as is. How do you wish to proceed with this one that I have in my hand which is the actual original marked one?

CLERK: Your call. I can scan it in for identification or I could just take the sticker back off if he's going to split it into how ever many other exhibits he wants to do.

MR. HOLDER: I could withdraw it and re-enter it.

THE COURT: Take the sticker off. Okay. For the record, I'm taking the sticker off of Justin Holder number 3 because even if you asked him one question about it I'm telling you now I would not have admitted it as is. It's too

many documents of different sources under one exhibit sticker. And just so that you know, I bet what you were thinking was, hey, I received this in discovery. I put a staple in and a sticker that's good. I just want you to know that that's not true, okay. You good?

MR. HOLDER: Okay.

THE COURT: That's okay. Alright, it's ten of twelve. We should go ahead and take a break so people can get some lunch, get your legs moving. You can take care of those exhibits during the break. At 1:00 we're going to come back and start discussing subpoenas. We'll try to move as quickly as we can through that. Mr. Young, you're still a witness. You are still on the witness stand, you're still under oath. Okay. You are not to discuss your testimony or this case with anyone during the lunch break, do you understand?

A. Yes, sir.

THE COURT: Counsel, are we good?

MS. PEEPLES: Yes.

MR. PEMBROKE: Yes, sir.

THE COURT: Let's be back ready to go at 1:00 o'clock, okay?

MS. PEEPLES: Yes, Your Honor.

MR. KLINE: Yes, sir.

THE COURT: We will be in recess until then.

(Whereupon at 11:50 a.m. court was in luncheon recess

and resumed at 1:02 p.m.)

THE COURT: Okay, we're back on the record then Jeffrey Young versus Justin Holder, et al., C-21-CV-20-371. I think we have some housekeeping matters to deal with before we get to the continuation of Mr. Young's examination. So, Mr. Young, just sit there and relax. Okay, I have in front of me some Motions to Quash Subpoenas for trial from the Picketts, from Keedysville and Mayor Lord, from DNR, those are the three motions. I also had notation of Ms. Larson?

MS. PEEPLES: Yes.

THE COURT: Subpoenaed by Mr. Holder, is that right?

MR. HOLDER: Yes, Your Honor.

THE COURT: She is in Africa?

MS. PEEPLES: Yes.

THE COURT: But her husband is here?

MS. PEEPLES: Yes.

THE COURT: Is he out in the hall?

MS. PEEPLES: Yes.

THE COURT: Okay. And her indication or his indication was that she would be available remotely?

MS. VANDERAU: Yes to testify when motions are heard to appear remotely.

THE COURT: Well, I don't think we need a motion. We'll just do it. And then I have a notation here the other witnesses that are sitting out in the hall, I noticed maybe

three or four people sitting out there. So, why don't we start with the witnesses in the hall. Are they Plaintiff's witnesses that are sitting out there?

MR. PEMBROKE: When I came in two of them are.

THE COURT: Okay. And then who is the lady that we're calling out of order today?

MR. PEMBROKE: Ms. Hildebrand.

THE COURT: Ms. Hildebrand. Is she out there?

MS. PEMBROKE: I've never met her. I don't believe she is.

THE COURT: Do you know if you saw her?

MR. HOLDER: No, Your Honor, she's not out there yet.

THE COURT: Okay. I wonder about the witnesses in the hall. Mr. Kauffman, can you take care of that other thing for me that we talked about?

MR. KAUFFMAN: Yes.

THE COURT: Are we going to get to the other witnesses in the hall because I hate to have them sit here all afternoon if we know we're not getting to them.

MR. PEMBROKE: Your Honor, I would anticipate not getting to them.

THE COURT: Okay. Other than Ms. Hildebrand?

MR. PEMBROKE: In all honesty because - -

THE COURT: We still got Mr. Joliet and Ms. Hildebrand.

MR. PEMBROKE: Well because Your Honor was right and I

was wrong.

THE COURT: What's that?

MR. PEMBROKE: About the timing.

THE COURT: Timing? Okay.

MR. PEMBROKE: I've reshuffled the order that I'm going to call witnesses in.

THE COURT: Okay.

MR. PEMBROKE: So, the likelihood of those two witnesses testifying for the Plaintiff today is virtually nil.

THE COURT: How do you feel about excusing them for the day then calling them back in tomorrow morning?

MR. PEMBROKE: With the Court's permission I would like to do so.

THE COURT: What are their names?

MR. PEMBROKE: Jesse Downs, Cheryl Young.

THE COURT: Oh. Mrs. Young.

MR. PEMBROKE: And if Mr. Ted Ellis is there, he wasn't when, when I came in, he may be excused also.

THE COURT: Okay. I just had my Bailiff run a quick errand for me. We'll deal with Jesse Downs, Cheryl Young and Ted Ellis in a moment. Alright, let's talk about Mrs. Larson. You had subpoenaed her.

MR. HOLDER: Yes, Your Honor.

THE COURT: I received notification that she's in Africa. Is Mr. Larson in the building?

MS. VANDERAU: Yes. Do you want me to go get him?
THE COURT: Can we go get him? Hang on Mr. Holder.
MR. HOLDER: Okay.
THE COURT: Did you subpoena Mr. Larson?
MR. HOLDER: I did not subpoena Mr. Larson.
THE COURT: Okay.
MR. HOLDER: If you would - -
THE COURT: Let's wait until Mr. Larson comes.
MR. HOLDER: Okay.
THE COURT: Hey Mr. Larson.
MR. LARSON: Hi.
THE COURT: Just come up to the gate there for a second for me.
MR. LARSON: Okay.
THE COURT: Can you give me your name?
MR. LARSON: Matt Larson.
THE COURT: And your wife's name?
MR. LARSON: Rebecca Larson.
THE COURT: And I understand she is in Africa?
MR. LARSON: No, she's in Europe?
THE COURT: Europe.
MR. LARSON: Yes.
THE COURT: Why did I hear Africa? Okay. But she's in Europe.
MR. LARSON: She is in Europe, yes.

THE COURT: And you understand she's been subpoenaed to testify in this case?

MR. LARSON: Yes.

THE COURT: Okay, and it's my understanding that she is willing and able to testify remotely for zoom if need be.

MR. LARSON: If need be, yes. Yea.

THE COURT: Okay. Mr. Holder, you're the one that subpoenaed the witness. Do you still wish for her to testify? And here' what I'm suggesting. I'm willing to get her on zoom and have her here on this TV for examination at a date and a time that you and I can agree that all counsel and I'm sure Mr. Larson will help me make that happen and we'll just send her an email and she can get on recognizing she's in Europe, there's a time difference but we'll make it happen. So, she's not unavailable.

MR. LARSON: Correct.

THE COURT: But do you want me to make that happen because I will make that happen?

MR. HOLDER: Could we decide after the Plaintiff's testimony or do - - As of right now, yes I do need to make it happen, yes.

THE COURT: Okay. Will you get with Mr. Larson?

MS. VANDERAU: Yes.

THE COURT: May we have your cellphone number and may we have your email address and your wife's email address?

MR. LARSON: Okay.

THE COURT: She can receive email if I send her a zoom link?

MR. LARSON: Okay.

THE COURT: Will she have access to be able to do zoom on a laptop?

MR. LARSON: It will be - - She doesn't have a laptop. It's like an iPad. She has her iPad.

THE COURT: Could she do it?

MR. LARSON: She - - Yea.

THE COURT: Okay.

MR. LARSON: Yea.

THE COURT: Alternatively, it be by phone but let's try to do zoom first, okay. But zoom or phone, zoom will have a phone link also?

MS. VANDERAU: Correct.

THE COURT: Mr. Larson, thank you for coming here today. I appreciate you coming on a short notice.

MR. LARSON: No problem.

THE COURT: And advising me what the issue was, okay.

MR. LARSON: Right, no problem.

THE COURT: My assistant, Dawn, is going to help you out in the hall.

MR. LARSON: Okay.

THE COURT: Your phone number, your email address will

be private in my office.

MR. LARSON: Okay.

THE COURT: And I would be emailing you and your wife directly a zoom link.

MR. LARSON: Okay.

THE COURT: If we decide at the end of the day that Mr. Holder still wants her to testify.

MR. LARSON: Okay.

THE COURT: Recognizing the timing of this, when would you expect to want to call her? And the reason I ask it is this. Based on trials go they go longer than you think, we're probably not going to really finish Mr. Pembroke's side of the case until noon tomorrow. Do you understand? (No audible response) Do you think you'd be calling Ms. Larson early in your case like tomorrow afternoon or do you want to push her till Thursday so that I could at least let her know so she can plan her life?

MR. HOLDER: Let's push her to Thursday so she has plenty of time and notice.

THE COURT: Morning or afternoon?

MR. HOLDER: Uh, late morning. Well, let's see, Europe is what?

THE COURT: We'll she's - -

MR. LARSON: Six hours ahead.

THE COURT: So, if we do her at 9:00 o'clock in the

morning here she's 3:00 o'clock in the afternoon there.

MR. LARSON: The only problem is Thursday she's traveling the whole day.

THE COURT: Coming home?

MR. LARSON: Yes.

THE COURT: Okay. What time does she leave?

MR. LARSON: Um, I don't remember exactly.

THE COURT: Can we do her tomorrow afternoon?

MR. LARSON: Yes.

THE COURT: It would be 7, 8, 9 o'clock in the evening there.

MR. LARSON: Yes.

THE COURT: Are you sure?

MR. LARSON: Yes.

THE COURT: I think we got to do it tomorrow afternoon if you're still going to call her.

MR. HOLDER: Yes, absolutely. Correct.

THE COURT: Okay. Please give her a call or text her.

MR. LARSON: Okay.

THE COURT: Tell her tomorrow between 6:00 and 9:00 I need her available with her, her iPad, charged up or her cellphone charged up and we will get more specific about time later. Probably what we'll do is we will call you tonight to let you know exactly. Do you understand?

MR. LARSON: Yep.

THE COURT: Do we need him anymore today?
MR. HOLDER: No, Your Honor.
THE COURT: Does that take care of it?
MR. HOLDER: Yes, sir. Yes, Your Honor.
THE COURT: Mr. Larson, thank you for coming in. I appreciate it.
MR. LARSON: Yep. Thank you.
THE COURT: Alright.
MR. HOLDER: Thank you, Mr. Larson.
THE COURT: So, Larson is some time between noon and 3:00 tomorrow, if we still need her. Okay. Let's talk then about Motion to Quash Subpoenas. There were motions filed.
MR. HOLDER: Yes, Your Honor.
THE COURT: And I know it happened very quickly, you know, towards the end of the week and there was a flurry back and forth. I tried to rule as quickly as I could. I think you've received now some of the orders or all of the orders I don't know that they hit at the MDEC system quick enough for you to have seen them over the weekend. I don't know. I think you received them today though, right?
MR. HOLDER: I received them at 9:00 o'clock today.
THE COURT: Okay.
MR. HOLDER: The (unintelligible) I looked at is that omnibus motion I filed in writing to try to address them was stricken from the record.

THE COURT: The reason I struck that is I'm just going to let you argue it to me right now.

MR. HOLDER: Okay. That's fine.

THE COURT: So, it wasn't, that wasn't, I wasn't saying you weren't allowed to make the argument but to file a motion as we were starting trial I thought was unnecessary because I'm going to let you discuss it now, okay? Alright. So, here's where I'd like to start. I'd like to start with the DNR Motion to Quash.

MR. HOLDER: Okay.

THE COURT: You now that they had originally filed one and I had granted it.

MR. HOLDER: Yes.

THE COURT: Okay. You then updated the subpoena, right?

MR. HOLDER: Correct.

THE COURT: And they filed a second Motion to Quash.

MR. HOLDER: Correct.

THE COURT: I thought the attorney was here this morning to argue it.

MR. HOLDER: She was.

THE COURT: Okay. I'm not sure why she left. Who knows? But I am willing to allow the Department of Natural Resources to stand on its motion that it filed.

MR. HOLDER: Okay.

THE COURT: But because you're here, I will hear

argument from you.

MR. HOLDER: Basically, Your Honor, we had pre-trial hearing June 7th to potentially bifurcate some issues. Certain issues weren't bifurcated. As soon as I knew, June 8th I placed subpoenas, served it to civil service, they asked in their motion to quash for a more specific reason of what they were coming to trial for. I immediately provided that, served it upon civil service email. In accordance Rule, I think the Rule 2510(d) says, "Unless impractical a party shall make a good faith effort to cause a trial or hearing or subpoena served at least five days before the trial." In that case, it was impractical. I made every good faith effort I could to get them served. I, I limited - - In the email I said, hey, maybe bring the same witness you. I don't want to tell a department what witness to bring but.

THE COURT: So, you served these by email, to DNR?

MR. HOLDER: Yeah, the State agency corporate designees have to be served by civil service and email. That's the only way they accept service.

THE COURT: Okay.

MR. HOLDER: For those particular, for DGS, I'm sorry, Department of General Services and Department of Natural Resources. So, I served them. I basically planned to rely on what they talked about in deposition. Mr. Young testified a DNR officer was present on May 29th when the ground was

being cleared. They were present all through the process. They have factual evidence, personal knowledge about the road that Mr. Young testified about, dead-ending at the top of Parcel 3. They were able to identify metes and bounds with monuments, the location of certain rights of ways, all very, very narrow to this issue.

THE COURT: So, essentially what you're telling me is you think you were timely, you sent it to the email that you think you were supposed to send it to and you think that you provided the specificity that the first subpoena did not have.

MR. HOLDER: Yes.

THE COURT: Okay. My finding is that the specificity that you gave is particularly unclear. You're asking a witness to come here to testify consistently with how other people testified and that's impossible to ask for in a subpoena. Motion to Quash is granted.

MR. HOLDER: Thank, Your Honor.

THE COURT: Yes. Let's talk about the Picketts. The Picketts have similarly filed a Motion to Quash. I made a call or I asked Attorney Marcum to call this morning to indicate whether he would be available today at 1:00. His response was that he stands on the Motion to Quash in that it speaks for itself.

MR. HOLDER: Okay.

THE COURT: Okay. Do you wish to be heard on the Pickett's Motion to Quash, and it is for both of them, right, Mr. and Mrs. Pickett?

MR. HOLDER: Yes, as far as I read it.

THE COURT: Okay. Yes, go ahead.

MR. HOLDER: The Picketts are the neighbors of Ickes. They abut the property. I expect them to testify about Mr. Ickes' possession of the property.

THE COURT: Do you know what lot they are off hand? If you don't know - -

MR. HOLDER: I do, I do. The Selby's 10, Ickes is 11 and their 12.

THE COURT: Okay, got it. Ickes is 11?

MR. HOLDER: Ickes is 11.

THE COURT: Selby is 12.

MR. HOLDER: Selby is 10.

THE COURT: Yea, no, you're right. You just said that. Okay. So, Selby is 10, Ickes is 11.

MR. HOLDER: Ickes is 11.

THE COURT: And Pickett is 12.

MR. HOLDER: Pickett is 12 and Larson is 13.

THE COURT: Got it. Who is?

MR. HOLDER: Larson is 13.

THE COURT: Larson. Got it. Okay, do you wish to be heard? Look, here's what, here's what they said in their

motion. They received the subpoena on or about June 15 according to them, six days before trial. They're both employed. It would be impossible for them to take off three days. Mrs. Pickett is scheduled for a trip out of Washington County tomorrow but no further explanation. Meeting the subpoena would constitute and undue burden on such short notice and due to other plans and work schedule. And they're suggesting you acted unfairly with the second case. How do you wish to be heard on this subpoena, the one to the Picketts?

MR. HOLDER: Same thing. At pre-trial I believe there was no dispute of certain facts. These are rebuttal witnesses. I'm going to question the Plaintiff about a few facts.

THE COURT: Um hum.

MR. HOLDER: If he answers to where I believe he will I won't need any of these witnesses - -

THE COURT: Okay.

MR. HOLDER: But if he doesn't then they're all rebuttal witnesses. I did serve those immediately after pre-trial on June, June 8th I delivered them to the Sheriff right in the courthouse and I really don't have any control over how fast the sheriff serves a subpoena. I emailed everybody. I emailed Mr. Marcum and let him know, hey, I won't be needing these people on the first Tuesday. Try to schedule them, you

know, and I tried to do my best to work in good faith with these witnesses. But they do have material evidence, they're adjoining property - -

THE COURT: They're neighbors.

MR. HOLDER: Correct. And they have already previously been deposed. I'm perfectly willing to use that to reduce their burden. I don't need to ask them anything additional than what they've already testified to but Your Honor insisted upon - -

THE COURT: What's the general tenor of what you expect them to testify to?

MR. HOLDER: That Mr. Ickes has been mowing the grass since he's moved in - -

THE COURT: Okay.

MR. HOLDER: - - um, June 16, that they have no evidence that any rights of ways have been abandoned.

THE COURT: Okay.

MR. HOLDER: The didn't know who owned the property when they moved in. Never saw Mr. Young on the property.

THE COURT: Okay.

MR. HOLDER: Just the general nature of the property.

THE COURT: Okay. Alright. I think you already testified that yeah, Ickes did mow.

MR. HOLDER: He did.

THE COURT: Here's what we'll do. We're going to hold

off on Pickett making a decision on them. And maybe during a break you and Mr. Pembroke can have a discussion as to if there's a proffer that can be made as to what they would say. Depending on any other further testimony even you indicated they would be rebuttal witnesses anyway. So, maybe we don't need them. So, I'm not going to rule on it yet. Okay.

MR. HOLDER: Correct, correct.

THE COURT: Alright. Next, we're going to do Keedysville and Mayor Lord. But before we get that Mr. Kauffman?

MR. KAUFFMAN: Yes, sir.

THE COURT: Could you go out into the hallway and could you bring me, is Jesse a man or a woman, Jesse Downs?

MR. PEMBROKE: Man.

MR. HOLDER: Yes, sir.

THE COURT: Bring me Mr. Downs, Mrs. Young and Mr. Ellis, if they're here. Downs, Young, Ellis.

MR. KAUFFMAN: Yes, sir. Mr. Pembroke, 9:00 a.m. tomorrow for these witnesses? Downs, Young and Ellis. 9:00?

MR. PEMBROKE: Yes, sir.

THE COURT: Is that okay, counsel?

MR. HOLDER: Your Honor, Mr. Blancato is out there as well.

THE COURT: Is he one of yours?

MR. HOLDER: He is. But also, he may be one of Mr.

Pembroke might call him.

THE COURT: Blancato? Do you want me to excuse Mr. Blancato? I'm asking you? Do you want him?

MR. HOLDER: Until tomorrow, yes.

THE COURT: Okay. Sir, I need Mr. Blancato. What's your name, sir? You can remain standing.

MR. DOWNS: Downs.

THE COURT: Downs. Ma'am? Mrs. Young?

MS. YOUNG: Young.

THE COURT: Okay. Mr. Ellis was not out there. Just remain standing for me, okay. I got good news for you.

MRS. YOUNG: We like good news.

THE COURT: Of course. Well, I got good news and bad news, so which one do you want first? Are you Mr. Blancato?

MR. BLANCATO: Yes, sir.

THE COURT: Okay. Here's where we are on things. The case is moving along just fine. But we have more witnesses to hear from before we can possibly get to you today, do you understand? And so, I'm not going to make you stay in the courthouse today. I'm going to let you go for the day, go about your day, do what you want to do. Okay. Mrs. Young and Mr. Downs, I would like you back I this courthouse at 9:00 a.m., tomorrow morning. Okay?

MRS. YOUNG: Okay.

THE COURT: Alright. Mr. Blancato, hang on a second.

When do you want Mr. Blancato back?

MR. HOLDER: If the Plaintiff isn't going to call him, probably in the afternoon.

THE COURT: I would like you to be here at 1:00 o'clock tomorrow. Does that work?

MR. HOLDER: Yes, I'll get him in right away.

THE COURT: 1:00 o'clock tomorrow. Do you understand?

MR. BLANCATO: Yes, sir.

THE COURT: Okay. The three of you are excused until the times I told you. Okay.

MRS. YOUNG: Okay.

THE COURT: Thank you very much.

MRS. YOUNG: Thank you.

THE COURT: Okay. Let's go on then to the town of Keedysville and Mayor Lord, Motion to Quash was filed by Mr. Kuczynski's office. Mr. Kuczynski is here at the bar. Mr. Kyczynski, do you wish to be heard, sir?

MR. KUCZYNSKI: Your Honor, I just, I will reiterate the basis that we set forth in the Motion to Quash. We fought it both on the town of Keedysville on behalf of Keedysville and Kenneth Lord. I assume that the subpoena that was served to Town Hall with Kenneth Lord's name on it was intended for him as Mayor of the Town. The other subpoena to the Town of Keedysville one was issued on July 8th and then I guess I'll say re-issued but another subpoena was issued on July 15th, I'm sorry June

15th of 2022. And it appears what Mr. Holder attempted to do was create the specifics or direction of what he expected to ascertain from a corporate designee. All of the subpoenas were served on the 16th of July at Town Hall. Only one of them was issued on the 8th and that was defective from the outset for the same reasons the Court ruled on the DNR subpoena.

Your Honor, we, a couple, I mean - - Two or three days notice is not appropriate.

THE COURT: Because you're not counting the Saturday and Sunday?

MR. KUCZYNSKI: Yea, and even I do count I don't think he's got five days from the 15th of - - But, yes, I'm not counting Saturday or Sunday.

THE COURT: So, they were served at Town Hall on - -

MR. KUCZYNSKI: On the 16th of June.

THE COURT: Today is the fifth day.

MR. KUCZYNSKI: Correct.

THE COURT: Okay.

MR. KUCZYNSKI: Well but if you don't - - But the Rules say we don't count Saturdays and Sundays if the timeframe is less than ten days. So, and it's pretty much the same basis that the County filed theirs on.

THE COURT: Well, I'm going to tell you Mr. Kuczynski, I've read that Rule. I've also read Maryland Rules

Commentary. Everybody, I think everybody who has argued the five day don't count the Saturday and Sunday have gotten it wrong.

MR. KUCYZYNSKI: Okay.

THE COURT: Here's why. Everybody had been looking at 1203(a), which is Computing the Time After an Event, where you don't count Saturdays and Sundays. Whereas 1203(b), Computing Time Before an Event, the event being trial, how far in advance of trial must you serve them. You do count the Saturdays and Sundays. Maryland Rule Commentary says, "When a subpoena is to be used to compel testimony at a trial good faith effort must be made to serve the subpoena at least five days in advance of the court date. Since Saturdays, Sundays and holidays are included in the five days, questions as to the good faith effort must be should involve questions of genuineness of the effort. So, Saturday, Sunday and the holiday are included.

MR. KUCYZNSKI: But do we count the day it's served? So, generally our counting starts the day after. If we start the day after then we get the 17th, 18th, 19th, 20th, 21st, is I believe what the Court did but today would be the fifth day, which is not in advance because obviously we're standing here.

THE COURT: But they were served on the 15th, right?

MR. KUCZYNSKI: No, they were served on the 16th.

THE COURT: Okay. If I don't count today, five days before trial would be 20, 19, 18, 17, 16. They were served exactly five days before the trial started.

MR. KUCZYNSKI: Not to - - With all due respect to the Court, I think you start your counting the day after. You don't count the day of the event, the day of the service. If I'm counting answers to interrogatories I can start counting the day after. So, my position here would be that if you, if the Court's position is that you count Saturdays and Sundays then I think the Rule still applies that you start counting the day after. In which case, you would be counting, so that would be the 17th, 18th, 19th, 20th, the 21st, today is the 21st if I look at the calendar correctly. That is not five days in advance of trial.

THE COURT: I think you count the other way. Because I think it is, it is timely. Okay. So, here are my thoughts on it. Was it your intention Mr. Holder that Mr. Lord would be testifying as the Mayor of the Town of Keedysville?

MR. HOLDER: Uh, no, Your Honor. I served the subpoena to his personal residence to just Kenneth Lord and they the Sheriff chose to deliver it to Town Hall but that's the address I had written on my subpoena was to I believe 16 Appomattox Court and - -

THE COURT: So, it didn't go to his home?

MR. HOLDER: It did not go to his home. It went to the

Town Hall and I suggested in the email that perhaps to lessen the burden of the town, Mayor Lord could testify as corporate designee and the Mayor just so the town had very limited exposure to the time they had to spend in this case testifying as they did in prior depositions and I believe in, March 11th, hearing the council for Mayor Lord represented that they would accept the deposition taken in case ending 116 to be used as evidence in this and that's basically what I have.

THE COURT: Well, that's not up to them is it?

MR. HOLDER: Well, I understand. But that's what I had the intention of deposing Mr. Kenneth Lord on his deposition testimony and on May 13, 2021.

MR. KUCZYNSKI: Your Honor, may I?

THE COURT: Yes, Mr. Kuczynski.

MR. KUCZYNSKI: As it relates to Kenneth Lord then his service of his subpoena clearly is defective because it was being served on him as personal capacity as opposed to the Mayor for the anticipated corporate designee than delivery to the town hall is not an appropriate location. In fact, he was never served with the subpoena. Alright, I filed the Motion on his behalf on the assumption that he was being sort of shanghai as - -

THE COURT: That's how I read it. I read your motion as because it went to town hall it's clearly in his capacity as

a public official, the Mayor.

MR. KUCZYNSKI: That's what the assumption was but he was in fact not served at his residence. And with that being said, you know, service - - And so, the delivery to town hall obviously I guess would be appropriate to the town since we've not prevailed on our argument regarding the time for filing or the timeliness. Um, but I still would argue that the subpoena as it's been phrased with its barely legible I guess because of the font, uh, description of what Mr. Holder was seeking from the corporate designee, um, I don't think, I think it fails on its face. But if the Court doesn't agree with that then the second practical problem is this relates, my understanding to a subdivision plat for Stonecrest that was approved in May of 2005, recorded in May of 2005. The Mayor who was in office at that time is dead. There is no one to designate. We have a town manager who's been there for six months and we have a mayor who has no personal knowledge of anything that occurred relating to the subject matter that Mr. Holder has requested. Now, if I really didn't care about how this proceeding went I could certainly designate the Mayor or the Town Manager and let one or the other of them come in and honestly and candidly say they have no idea about anything as it relates to Stonecrest Development, the creation of it or the application of the adequate public facilities ordinance. So, without some

indication from Mr. Holder is who he anticipated being the corporate designee, i.e., if he's saying it's Mayor Lord, Mayor Lord I will proffer will testify that he has no knowledge, no understanding, no affiliation, no connection to the town in 2005 that would qualify him to testify factually about anything. If that's how Mr. Holder wants to proceed I guess that's his choice.

THE COURT: Let me ask Mr. Holder. You added specificity to the corporate designee subpoena - -

MR. HOLDER: Yes, Your Honor.

THE COURT: - - as to what you are looking for and I can read it. I mean it's small but I can read it.

MR. HOLDER: I did it as soon as I saw your Order.

THE COURT: What are you really hoping to achieve with a corporate designee from the town of Keedysville? What do you expect them to say?

MR. HOLDER: Could I just address one point before I answer that before I forget it?

THE COURT: Yes.

MR. HOLDER: Okay, I think it's appropriate to serve a subpoena on somebody's place of work.

THE COURT: Okay. We'll talk about that later.

MR. HOLDER: What I expect to get out of the town of Keedysville is I had a motion to compel evidence on Christine Morral, that evidence, the pictures - -

THE COURT: Wait a minute. Start again.

MR. HOLDER: I had a Motion to Compel Evidence on Christine Morral in this case. She got a Protective Order. We kind of fought that pretty and Keedysville was asked to compel that evidence. I need somebody that can testify who these pictures are coming in, where the pictures that were produced are, certain emails. I need to get those into evidence. Christine wrote an email saying I was planting properties, or trees on the property well before, you know, this, this dispute arose. So, certain emails I need to bring in as well as a rebuttal expert for what I believe expert Mr. Joliet - -

THE COURT: That person wouldn't be an expert.

MR. HOLDER: I'm sorry, a rebuttal witness - -

THE COURT: Okay.

MR. HOLDER: - - for some of the facts that Mr. Joliet I found in deposition appears to be relying on that relate to the approval of plat 8292. It's potential that in cross-examination town of Keedysville isn't needed other than just bringing in the evidence but their council Matt Hall was around. He's been around for thirty years and he was on the Planning and Zoning and he can certainly attest to everything, you know, relevant as a corporate designee as well.

THE COURT: Okay. So, pictures, emails, and how plat

8292 came to be and how it was approved.

MR. HOLDER: Correct.

THE COURT: Okay.

MR. KUCZYNSKI: How many designees does he want?

THE COURT: I don't know because I'm concerned that Mr. Hall, whoever he is, I don't know that he can tell me that those emails are genuine and correct and they were received or that those photos are genuine and correct and they were received by Town Hall. He's just a councilman and they come to meetings once a week - -

MR. HOLDER: That would be - - Which is why - -

THE COURT: - - sort of but if he was on Planning and Zoning maybe he remembers 8292.

MR. HOLDER: And that's why I asked for Kenneth Lord as the person receiving the email and also the corporate designee.

THE COURT: Are they emails to Kenneth Lord?

MR. HOLDER: Correct, they are.

THE COURT: As Mayor?

MR. HOLDER: I believe they are to his Mayor Ken Lord address, yes.

THE COURT: Okay. Mr. Kuczynski?

MR. KUCZYNSKI: Can't they just stipulate that the emails were - - I'm sorry.

THE COURT: I'm hoping we can.

MR. KUCZYNSKI: I'm trying to stay on this bar, this side of the bar, Your Honor.

THE COURT: I know.

MR. KUCZYNSKI: But can't the parties stipulate that the emails that were sent to the Mayor by Christine Morral were emails that were sent by Christine Morral to Mayor Lord?

THE COURT: Yea.

MR. KUCZYNSKI: I mean the meaning of them - -

THE COURT: And maybe they can.

MR. KUCZYNSKI: And if they relate to photographs or videos we provided those in connection with he motion for protective order - -

THE COURT: Because I told you to.

MR. KUCZYNSKI: Because we did.

THE COURT: Yea.

MR. KUCZYNSKI: So, I'm standing here as town attorney to say that the emails that were provided were provided, you know, if they say Ken Lord, Mayor, they were generated by Ken Lord, Mayor. If the videos were provided they were provided through a search of the town records by the town manager Lisa Riner who provided to Mr. Holder pursuant to discovery. Again, I'm not trying to strong arm anybody in here but to bring in three or four people from the town of Keedysville who really stand on this side of the bar in this case to testify to literally tie up two or three days of their time

for something that seems to be a minor component to this case seems excessive and costly because if he's going to argue that's the Mayor's place of work this is a town where they are not full-time politicians. They don't spend a lot of time there. They have one meeting a week. The Mayor works full-time for the federal government. Matt Hull is the Assistant Mayor who runs a full-time craning business and spends most of time running his equipment back and forth to the metropolitan area. Lisa Riner is a full-time town manager but she's been there for six months. The town manager who may have been able to shed some light on this is no longer employed with the counsel. I can't designate him as a corporate designee.

THE COURT: Who was that?

MR. KUCZYNSKI: That was Rick Bishop.

THE COURT: Did you subpoena Mr. Bishop?

MR. HOLDER: No, he's the one that testified as the corporate designee after his resignation in September. He resigned in August of 2021.

THE COURT: Right.

MR. HOLDER: And then came to the, I believe it was after he resigned.

MR. KUCZYNSKI: Well, that's because the deposition or the scheduling of the deposition was occurring as Mr. Bishop was exiting or as he was resigning. And we agreed the Town,

he agreed and the town agreed to have him appear as a designee because at that point - -

THE COURT: Because he had the best knowledge.

MR. KUCZYNSKI: Because he had the best knowledge at that time. But we have no connection with Mr. Bishop at this point. So, I can't designate him or force him and he hasn't been subpoenaed. And I'm not trying to make it more complicated.

THE COURT: I know.

MR. KUCZYNSKI: I'm just trying - - But I am being realistic as somebody who's been trying cases for forty years it doesn't do any good to call a witness if they don't know anything. And I can, I can proffer to this Court that they know nothing. In joking, I said well maybe we'll designate my 91 year old father because he was around when that went on but I'm not going to do that because we're not going to waive privilege. So, Matt Hull may now but he's not been designated to specify hasn't been deposed nobody's even mentioned him until Mr. Holder just mentioned him here.

THE COURT: Okay. Alright.

MR. KUCZYNSKI: So, I'm not real sure - - I mean why can't we stipulate that the plat was entered, you know - -

THE COURT: Hang on a second Mr. Kuczynski. Ma'am, what's your name?

MS. HILDEBRAND: Jessica Hildebrand.

THE COURT: Okay. Ms. Hildebrand, you're going to be a witness in this case.

MS. HILDEBRAND: I guess.

THE COURT: I'm telling you that you may be a witness in the case. Okay.

MS. HILDEBRAND: Okay.

THE COURT: Because of that, I need you to sit out in the hallway for me for a little while before I can get to you, okay.

MS. HILDEBRAND: Okay. I'm sorry, I apologize.

THE COURT: No problem, thank you. Okay, here's what we're going to do so that we can get moving. I'm going to hold on the decision on the town because I think Mr. Kuczynski is correct that as it relates to the emails and the photos and the video, right, my recollection is I ordered them to be produced and they were, sounds to me, like they were produced. Whether it was in this case or was in the *Estes* case, I don't remember which case it was, but I wonder if counsel can get together during a break or over the evening and decide whether I have to bring in a corporate designee to testify that, yes, this was an email that Ms. Morral, that was received by the Town.

MR. KUCZYNSKI: Your Honor, they were produced in this case because it was based upon his Motion to Compel as a result of what he perceived as a non-producing of information

through Mr. Bishop's deposition.

THE COURT: Okay. I would just like that conversation to happen between counsel, if a resolution can be had let me know tomorrow morning. If not, then I'll make a decision. Mr. Kuczynski, what I can tell you is there is certainly - - When would you want those witnesses Mr. Holder? They're not going to be today Mr. Kuczynski and they're not going to be tomorrow morning.

MR. HOLDER: I think we should push them till Thursday just so we have plenty of time to try to stipulate to a lot of the things.

THE COURT: If I decide that the subpoenas are good then it would be on Thursday for a corporate designee of the town who could testify as, the best person who can testify as Mr. Holder has indicated in the subpoena because I do believe the subpoena was timely according to the Rules and I do believe serving it at Town Hall was a correct place to serve it. As far as Mayor Lord is concerned Mr. Holder, why do you think sending it to somebody's place of employment is sufficient?

MR. HOLDER: Well, I didn't think so because I wrote his home address on but perhaps the Sheriff, perhaps somebody when the Sheriff went to his home, I'm just speculating, said, hey, he can - - I don't know but it got, it did. I got served at Town Hall and I agree that's not where I intended to have the subpoena served.

THE COURT: Okay. I'll take that one under advisement as well.

MR. HOLDER: Okay.

THE COURT: Okay. Anything else then Mr. Kuczynski?

MR. KUCZYNSKI: No, Your Honor. The only, from a practical standpoint, if the Court is going to require a corporate designee, trying to dissect whatever it is he's asking for one person possibly could serve on that designee as it relates to the Stonecrest subdivision approval, maybe even the adequate public facilities depending on recollection but then the other side of it the, you know, we're talking about photographs and things of that nature would be more recent in time and would not involve that particular corporate designee. So, I don't know - - And in good consciousness I cannot designate Mayor Lord because I believe that it would be doing an injustice to the Court as well as Mr. Holder and as well as the Plaintiff in this case because Mr. Lord clearly, I've spoken to him enough, he does not have any specific knowledge of anything that seems to be described in that subpoena.

THE COURT: Understood.

MR. KUCZYNSKI: So, I might just need some guidance as to, you know, who they think might be, who he thinks might be a proper corporate designee.

THE COURT: Okay. Alright.

MR. KUCZYNSKI: Thank you, Your Honor.

THE COURT: Alright, they are both taken under advisement then. Thank you.

MR. KUCZYNSKI: Thanks. So, if we're talking Thursday would we - -

THE COURT: It's under advisement for now. Thursday would be the day.

MR. KUCZYNSKI: I get that. Morning, afternoon.

THE COURT: I don't know yet.

MR. KUCZYNSKI: Okay, I'll just put them on alert. Thank you, Your Honor.

THE COURT: Thank you, sir. Okay. Did you get the information from Mr. Larson?

MS. VANDERAU: Yes.

THE COURT: Excellent. Okay, that's all I had on my list. Okay. Are we ready to continue testimony? Ready?

MR. HOLDER: Yes, Your Honor.

THE COURT: Okay, Mr. Young. Could you come back up to the witness stand, sir? Give me just a second. Let me get my timer ready. Okay, go ahead.

CROSS EXAMINATION OF JEFFREY YOUNG (cont.)

BY MR. HOLDER:

MR. HOLDER: This is page one of my previously withdrawn exhibit. I'd like that marked as Justin Holder exhibit 3. May I approach the witness, Your Honor?

(Defendant Justin Holder exhibit 3 was marked for identification)

THE COURT: Yes, sir.

Q. Mr. Young, could you examine that document?

A. I see it.

Q. Are you familiar with that document?

A. I've probably seen it before but this is clearer than it's been.

THE COURT: I think his answer is yes.

A. Yes.

Q. Okay. Is that a tax map of that includes your parcel that you claimed?

A. I don't know what a tax map is. But I see my parcel and I see Stonecrest.

Q. Did you provide - - Do you now if you provided or your agents provided that to me in discovery for request of documents?

A. I do not know that.

Q. You see your parcel on that plat though, could you tell me what number it is?

A. P180 or the 2499.

Q. Can you see what is the current abandoned railroad on that parcel?

A. It appears to be along the property line on Parcel 1

of mine.

Q. At the corners of your property the northwest corner and the southeast corner where they adjoin that abandoned railroad do they appear to be crooked or do they appear straight line (unintelligible).

A. Where are you talking about, here or there?

Q. Correct, yeah.

A. From this, uh, copy they appear to be crooked.

Q. Okay. That's all. Thank you. I move to admit Exhibit Justin - -

THE COURT: Move to admit Exhibit Justin Holder 3.

MR. HOLDER: Move to admit Exhibit Justin Holder - -

THE COURT: Hang on.

MR. PEMBROKE: No objection.

THE COURT: No objection. It will be admitted.

(Defendant Justin Holder exhibit 3 was admitted into evidence)

MR. HOLDER: Thank you, Your Honor.

THE COURT: Yes, sir. Hang on a second. On this exhibit 3, the line that is labeled Harry Wickline property line survey. Who typed that on the tax map?

MR. HOLDER: Um, I'd have to ask - -

Q. Are you aware of who typed Harry Wickline property line survey?

A. No, I'm not.

THE COURT: Okay. Thank you.

MR. HOLDER: Your Honor, these are pages from the same document. Is it okay to put them together?

THE COURT: Yes, just and them to the Clerk and let him review them.

MR. HOLDER: Please mark that as Justin Holder 4. May I approach the witness?

(Defendant Justin Holder exhibit 4 was marked for identification)

MR. PEMBROKE: Might I see them, Your Honor?

THE COURT: Yes. I'm sorry, Mr. Pembroke.

Q. Mr. Young, have you seen that document before?

A. I can't recall. I've seen hundreds and hundreds of documents. I think I've seen this map. I don't recall that one.

Q. Have you ever been in Keedysville Town Hall?

A. Yes.

Q. Are you familiar with that atlas hangs on the wall in Keedysville Town Hall?

A. I didn't recognize it or dispute it no.

Q. Do you have any idea why that wouldn't be produced to me as request for documents?

A. I'm sorry?

Q. Do you have any idea why you or your agents would have produced that to me in the request for documents?

A. I would imagine that shown the town limits and boundaries.

Q. Are you able to identify your property where it is on that document?

A. On which page?

Q. Maybe the next page. What's marked as page 4.

A. I would imagine some - - I don't know. I don't see any names or Wickline. That's the only name I recognize or knew. I see the railroad. I don't see - -

Q. Do you recognize Jacob Keedy as being - -

THE COURT: Hang on a second. Before we get too deep in talking about the exhibit, you should ask that it be entered into evidence, okay?

MR. HOLDER: Yes, Your Honor.

THE COURT: Would you like exhibit 4 to be in evidence?

MR. HOLDER: May I move exhibit 4 into evidence?

MR. PEMBROKE: Objection.

THE COURT: What is the objection?

MR. PEMBROKE: I believe Mr. Young said he - - I don't believe he can sufficiently identify the document in order to have it admitted.

THE COURT: Okay, do you wish to be heard?

MR. HOLDER: Yes, can I ask him some more questions. I

wasn't quite ready to admit it.

THE COURT: Well, you can't keep asking questions about the content. I just want you to understand.

MR. HOLDER: I understand.

THE COURT: About the content of it, right, of what it says, what, where the property lines are. It has to be laying the foundation for the admissibility of that evidence. Do you understand what I mean?

MR. HOLDER: I do. I do exactly.

THE COURT: You asked him, have you ever seen this before. He says maybe I did maybe I didn't. You asked him, "Have you ever been to town hall?" He says, yeah. Maybe it hangs there maybe it doesn't. That's not telling me what this is, where it came from and why I should admit it as genuine evidence. Do you hear what I'm saying? Okay, so.

MR. HOLDER: I'll do a better job.

THE COURT: No, no, no. You're doing a fine job. Before we get talking about property lines on that thing, it needs to be admitted into evidence. He has objected because there's not been a proper foundation laid for its admissibility. So, go ahead.

Q. Can you identify the Little Antietam Creek on that document?

MR. PEMBROKE: Objection.

THE COURT: You can't ask him - -

Q. Is it your testimony you've never seen that document before?

A. I've seen so many. I can't recall a more specific ones I look at five hundred six hundred pages of it in the course of two years. No, I may have seen it I may not.

Q. And is it your testimony that you're not aware of the relevance of that document in this case?

A. No, it's just old maps of Keedysville that I can barely read. You need a magnifying glass. These you can't even read the writing, the old style writing. No.

Q. But you can identify that that's a map of Keedysville?

A. Because it says Keedysville. This I don't know. I don't know any of these people. I see a railroad. I know what a railroad is. I don't see any thing of my plat my property on it that I can recognize. It just looks like a bunch of old Keedysville maps.

Q. Would it be your testimony that those, what you identify as old Keedysville maps had not relevancy to this case.

MR. PEMBROKE: Objection.

THE COURT: Sustained.

MR. HOLDER: I'll move to admit exhibit 4 on the fact that he said it was a map of Keedysville.

MR. PEMBROKE: Objection. That's not what he said.

THE COURT: Admission is denied. You'll have to get it in another way.

MR. HOLDER: Okay. Mr. Clerk, can you remove the sticker?

THE COURT: No, he'll keep it because we talked about it a lot but if you wish on at a later witness or yourself to try and get Exhibit 4 in you will be permitted to try it at a later time.

MR. HOLDER: Could you mark Justin Holder exhibit 5?

(Defendant Justin Holder exhibit 5 was marked for identification)

Q. Mr. Young, can you identify that document please?

A. It appears to be a plat of Stonecrest so it says here.

Q. Have you saw that document previously?

A. I may or may have. Like I say, I've looked at hundreds of documents in the past.

Q. But you're aware that that document is a land record that identifies the subdivision next to the property you're claiming in this lawsuit?

MR. PEMBROKE: Objection.

THE COURT: Sustained. What plat number is it?

Q. Mr. Young, would you please read the plat number? Oh, 10949.

THE COURT: 10949. Okay.

MR. HOLDER: Yes.

A. It says 10 - -

THE COURT: Plat records of Washington County?

MR. HOLDER: It is one of the plat records from Washington County and it's one that we stipulated to.

A. This paper says plat number 10650.

Q. I'm sorry, it's the second page.

THE COURT: Second page. Is there going to be an objection to a plat of this County coming into evidence?

MR. PEMBROKE: No, Your Honor.

THE COURT: Okay. Do you wish to have Justin Holder exhibit 5 admitted?

MR. HOLDER: Yes. Can I admit Justin Holder exhibit 5?

THE COURT: It will be admitted with no objection.

(Defendant Justin Holder exhibit 5 was admitted into evidence)

Q. Can you identify on that plat - - Would I be able to give him a pen to make a mark on that plat?

THE COURT: No.

Q. Could you identify and describe on that plat where you believe Parcel 3 to be?

THE COURT: Which plat is this? 10 0

MR. HOLDER: 100950.

THE COURT: 950. So, this is the second page of - -

MR. HOLDER: Plat 10949.

THE COURT: 10949 that was - - Okay. I'm with you.

A. It says 6 here. Right here it says 10650 right there. Is that the same one?

Q. Yes, you're correct. It's the second page of what - -

THE COURT: That's the second page of another plat.

A. Okay, well he keeps saying a number that's not on here.

Q. I apologize, Mr. Young.

THE COURT: That's okay.

Q. I spoke - -

THE COURT: Don't worry. Mr. Holder and I know what it is.

A. Okay.

THE COURT: Alright. What was the question, sir?

Q. Can you identify where what you believe would be Parcel 3 is using that plat?

MR. PEMBROKE: Your Honor, may I approach?

THE COURT: Yes.

A. No, I cannot. I mean I just don't see anything in relationship to my property. I mean I do not.

THE COURT: He can't answer the question for you. He just wants to watch what you're looking at, okay.

A. I mean - -

THE COURT: His answer was no, he cannot tell based on that plat.

A. There's no recognition of my property on here. It's all description of Stonecrest so.

Q. Where in, in relation to Stonecrest, where do you expect your property to be on that plat?

A. I cannot tell because it's, it doesn't indicate anything to verify where my property is.

Q. So, it's your testimony that the plat of Stonecrest does not indicate Jeffrey Young as an adjoining owner?

A. I don't know what the plat says. It doesn't have my name on it anywhere I see. Maryland Resources. David, Patricia Giffin. Maryland Resources. Partnership plat. There's no indication of my property on here anywhere.

Q. Okay.

A. That I see.

MR. HOLDER: Move this into evidence.

THE COURT: Okay, if I did not already say it plat number, Justin Holder 5 is admitted.

(Defendant Justin Holder exhibit 5 was admitted into evidence)

MR. HOLDER: Could you mark Justin Holder 6 please?

(Defendant Justin Holder

exhibit 6 was marked for identification)

Q. Is that a photograph I'm handing you Mr. Young?

A. It appears to be a copy of a photograph.

Q. Did you take that photograph?

A. I did not.

Q. Do you know who took the photograph?

A. Probably my wife.

Q. How do you know it was your wife who took the photograph?

A. I said probably. I do not know.

Q. Okay. Do you recognize the area of that photograph?

A. Yes, I do.

Q. Could you explain to me where that photograph is?

A. That's coming off my lane where the access after you bulldozed and cleared a path on my property on Parcel 3 that day. And I drug some logs up there to keep people, hope keep people off of it. Didn't work.

Q. How long after I cleared the prop, well through my agents, cleared that property, did you place those logs there?

A. Probably within a day or two.

Q. So, that photo could have been taken - -

A. That same month.

Q. - - same month. Okay. Was there ever a time after

that that you place additional obstructions in the southern end of Parcel 3?

A. Yes, I put the cart I had and a chain across it. And put more trespassing signs up.

Q. And did you ever put more obstructions in Parcel 3?

A. Yes, we cleared property line and put the brush on there to be grown up at a later date.

Q. And did that finally work, was that finally after you obstructed over the trees unable to access Parcel 3 from that roadway?

A. Well, there was several people walking through there but no vehicles could go through there.

Q. Okay, so were you aware prior to the piling of wood which was - - Well, could you tell me what approximate time that piling of wood happened?

A. Later on, in the summer.

Q. Prior to filing a complaint?

A. No, after.

Q. After you filed the complaint. So, I was able to freely access the property, not by vehicle but by walking?

A. Yea. Several people.

Q. And I was, you knew I was.

MR. PEMBROKE: Objection.

A. Yea, I had many reports.

THE COURT: Hang on. Sustained. Why don't you take

three steps back?

MR. HOLDER: I'm sorry.

THE COURT: That's okay. Stop. You have to be sure the attorneys can see the witness and you're standing right, you're like, you know - -

MR. HOLDER: I know.

THE COURT: - - stand in front of the TV.

MR. HOLDER: My first time.

THE COURT: It's okay. You're okay. Stand there, okay.

Q. Now, Mr. Young, throughout this property dispute we had, we had many conversations. Did any of them - - Did they all remain civil?

A. For the most part, yes.

Q. And it was known to you that I was asserting rights over Parcel 3. It was clearly known to be by these conversations that you were contesting those rights?

A. Correct.

Q. But I still remained, came on the property, you never called the police.

A. I did not call the police on you. I was trying to keep things more civil. Maybe it could work out but.

Q. I understand. How many times over the summer of 2020, do you believe I was on the property?

A. I have no idea, several.

Q. Several. Okay. I move to admit exhibit 6 as

picture of Parcel 3.

THE COURT: Who was Johnny Carson that he would have the envelope?

MR. PEMBROKE: Carnac.

THE COURT: What?

MR. PEMBROKE: The Great Carnac.

MR. KLINE: Carnac.

THE COURT: The Great Carnac.

MR. KLINE: Yes.

THE COURT: I was going to stop Mr. Holder there before he read it. I was going to do the Great Carnac and I was going to say I bet it tells you to introduce exhibit 6. Any objection to 6?

MR. HOLDER: I'm getting there.

MR. PEMBROKE: No, Your Honor.

THE COURT: Exhibit 6 is admitted. Justin Holder 6 photograph in approximately May 2020, after the bulldozing. Probably wasn't a bulldozer, it was probably a bobcat.

(Defendant Justin Holder exhibit 6 was admitted into evidence)

MR. HOLDER: Correct. Justin Holder 7 please.

(Defendant Justin Holder exhibit 7 was marked for identification)

Q. Mr. Young, I'm going to show you a document from Western Maryland Title that we discussed earlier in your deposition I believe. Can you identify that?

A. Can I describe?

THE COURT: Do you know what that is?

A. This is pre-dated 1987. I wasn't on the property until '88.

THE COURT: Do you know what that document is?

A. It appears to be - -

MR. PEMBROKE: Objection.

THE COURT: Did you ever see it?

A. Not really. I think it's something to do with the right-of-way from Potomac Edison.

THE COURT: Okay.

A. But it predates my purchase of the property.

THE COURT: What are you proffering that it is?

MR. HOLDER: It's the Western Maryland Title that he testified to looking at prior to purchasing the property.

A. Which I've looked at hundreds and hundreds of pages.

THE COURT: Hang on, hang on Mr. Young. Do you recognize that as a title report concerning your property?

A. It appears that Harry Wickline and Lempi Wickline.

THE COURT: Who's it addressed to?

A. Harry Wickline and Lempi Wickline who I purchased the property from.

Q. Well, that's the title section. It was - -

A. Title property described for them. So, I'm sorry, what's the question?

Q. I gave it to you because I asked you earlier - - Do you remember me asking earlier if you saw a title report from Western Maryland property, you said yes you did.

A. Well, that's what I'm reading now I assume.

Q. Correct. Move to admit Western Maryland Title Report, Defendant Holder exhibit - -

MR. PEMBROKE: Objection.

THE COURT: Hang on. Sustained. Do you recall that being the title report that you received before you bought the property?

A. I can't truthfully say yes or no. I don't recall. I mean that's thirty, forty years ago. This is thirty-five years ago paper.

THE COURT: Next question.

Q. So, is it - - So, is it your testimony that you have no recollection of reading a Western Maryland Title report prior to purchasing the property?

A. What I'm saying I may or may have but that's thirty-four, thirty-five years ago. I don't recall. If it was something that Wickline, I mean it was pre-dated by my possession of the property. I mean. I don't recall.

Q. Did you review title work other than the deeds prior

to purchasing the property?

A. I had the title work done to the best of my knowledge, yes.

Q. Did - - Was your wife employed as a title expert at that time or a title clerk?

A. Not at that time, no.

Q. Okay. So, it's your testimony you don't know what the (unintelligible) is?

A. Well, it appears to be the Wicklines gave right of way to Potomac Edison for on the property.

Q. Is there any of - - Are you in section, reading the section titled 4 Covenant Restriction Rights of Way and other matters?

A. This is lettered it's not numbered.

Q. I'm sorry. Page, what I got numbered as 16.

A. I got 16 but - -

Q. And then Roman Numeral IV.

THE COURT: We're going to stop. We're not going to get into the substance of the document until it is in evidence. He has indicated that he does not recall this document. He has not said that this was his title report. Unless you're telling me it's addressed to him.

MR. HOLDER: I'll withdraw it.

THE COURT: Okay.

MR. HOLDER: Should I pull the sticker?

THE COURT: No, you should give it to the clerk.

Q. Did you know Barbara Coleman, Mr. Young?

A. Barbara Coleman, yes I did.

Q. Did you discuss the purchase of the property with Barbara Coleman?

A. Yes.

Q. Are you aware that the title report was sent, that I just showed you, was sent to Barbara Coleman?

A. Yes, she was my girlfriend at that time.

Q. Did you review the documents that were sent to her prior to purchasing the property?

A. I'm sure I did, yea.

MR. HOLDER: Okay, now I move to admit the document titled to Barbara Coleman.

MR. PEMBROKE: Objection.

THE COURT: What's the objection?

MR. PEMROKE: Your Honor, he would - - There's no foundation to how he would know documents were or weren't sent to Ms. Coleman unless he's the one that sent them. And there's been no testimony as to who sent them and what they were specifically. Or when.

THE COURT: Sustained.

Q. How long did you mow the property Mr. Young when you began your occupation, how many years did you mow the property known as Parcel 3 on that plat right there, that we

have as exhibit 3, Plaintiff's exhibit 3?

A. Several years off and on.

Q. Could you be more specific than several? Was it three, was it more than three?

A. It was probably five to ten off and on when I felt like it, it was a distant way from my house. I had other priorities.

Q. And you purchased the property in 1988?

A. Yes.

Q. You began your occupation of the property in 1988?

A. Yes.

Q. So, there's no possibility you ever mowed Parcel 3 after 1998?

A. '98?

Q. 1998, correct.

A. I said off and on for years when I felt like it. When I saw evidence of people trespassing and trashing it up that I let it grow up to try to get avoided.

Q. And so, did you ever mow the property after 1998?

A. I probably did. I cleared it out to make a walkway for access for animals and hunt mushrooms.

Q. And when you mowed it how wide, the two mower width still?

A. Yea, about six foot enough for a walking path so, you know the area.

Q. Was it six foot next to the fence or six foot next to this lighter line here that you believed you mowed?

A. In the middle.

Q. Directly in the middle?

A. The easiest - - It didn't go straight. I had to meander around trees and multiple rose bushes.

Q. So, you meandered through the 12 foot with the 6 foot path.

A. No, I used the whole area I could. I didn't confine myself to a twelve foot area.

Q. What areas on Parcel 3 couldn't you mow?

A. Towards the far end of it was too, uh, covered up with ruts and mature trees.

THE COURT: When you say the far end do you mean the north end?

A. North end, yes, sir.

THE COURT: Okay.

Q. Would that be past where Ickes is mowing?

A. Yes.

Q. But Ickes was able to mow it, correct?

A. He cleared area, flattened it out, planted shrubs and made it more of a garden type visible area.

Q. Was that before or after Stonecrest developers dumped trash and debris on that area?

A. Before what?

Q. You testified that Stonecrest Development dumped trash and debris - -

A. Through the construction of it, yes.

Q. And was that on Mr. Ickes part of Parcel 3 as well?

A. No. It was mostly up towards the south end of it.

Q. Behind Mr. Blancato's house?

A. It was past his house, next two or three houses.

Q. Behind Mr. Larson's house?

A. Yes.

Q. Behind the Pickett's house?

A. Larson admitted to having his landscapers dump all their - -

MR. HOLDER: Objection to hearsay.

A. He - -

THE COURT: Listen, I don't need to hear what Mr. Blancato said. Before we go further, Blancato if you recall.

MR. HOLDER: Yes.

THE COURT: Is he the Larson's neighbor?

MR. HOLDER: He is.

THE COURT: So, he's lot, Blancato is 14?

MR. HOLDER: Correct, he's the very south end.

THE COURT: Got it. Thank you.

Q. So, how far up - - Were you only able to mow Parcel 3, about where the Larson's house is now?

A. About, no about two-thirds of it. I'm gonna let it

grow up, it's too, it's too thick.

Q. But never as far up as the Ickes (unintelligible)

A. Didn't have to. I mow what I felt like mowing.

Q. I didn't ask you what you felt like mowing. I'm just trying to find exactly what you mowed. What other activities did you do on the north end of Parcel 3, up past where the Ickes were? Did you ever go up there?

A. Yea, I went up there. I put stakes in. Somebody bent down. I run a wire across there, attached it to the other, other residing fence.

Q. Have you ever placed jersey barrier across Parcel 3?

A. Describe a jersey barrier?

Q. Things you see alongside of road, like a jersey barrier to block traffic.

A. Like a concrete thing weighs ten or twelve ton?

Q. Yes.

A. No.

Q. Have you ever fenced it off and block Parcel 3?

A. I had fence up there when I first put the signs up, back to the end of the property.

Q. What kind of fencing did you have up?

A. Barbwire.

Q. How many strands?

A. About three.

Q. And where did that go?

A. Vandals tore it down, bent the post to the ground a green, six foot tall post.

Q. A year, two years you putting it up?

A. Approximately.

Q. And any time you tried to block access to Parcel 3 did vandals tear down whatever you tried to put up?

A. Pretty much.

Q. Did people ever come on your property and shoot deer out of your stands?

A. Oh, yea. I've had deer stands stolen. I've had tractors stolen. I've had well pumps stolen. I've had people putting railroad ties into the mature trees to make a tree stand. I've had all sorts of aggravation there.

Q. On Parcel 3?

A. Not on Parcel 3 but on the whole property.

Q. Did Gary Castle ever give you permission to be on Parcel 3?

A. No, I own Parcel 3.

Q. You testified in your deposition to Gary Castle also gave you permission to go on Parcel 3.

A. I misinterpreted the question. And I thought we clarified that earlier.

Q. Well, you clarified Jennifer Butts earlier, just for the record but you never said anything about Mr. Castle so I was asking about Mr. Castle.

A. I believe I did.

Q. Just, is it your testimony now that Mr. Castle did not give you permission to be on Parcel 3?

A. He didn't have any right to give me permission. He didn't own it. I did.

Q. I didn't ask you that. I just asked you if you were given permission.

MR. PEMBROKE: Objection. Argumentative.

THE COURT: Overruled.

Q. I just asked you did Mr. Castle give you permission to be on Parcel 3?

A. No.

Q. Did he ever call the cops on you when he saw you on Parcel 3?

A. No.

Q. Did you ever call the cops on Mr. Castle when you saw him on Parcel 3?

A. No, I didn't.

Q. Have you ever called the police on anybody that you'd seen on Parcel 3?

A. No. I just told them to leave if they were on it.

Q. Besides Mr. Castle and myself, have you ever seen anybody else on Parcel 3?

A. Yes.

Q. Did you sue them for trespassing?

A. No.
Q. Did you write them a letter and tell them not to trespass?
A. No. Verbally told them they were trespassing, to get off my property.
Q. Who did you see and when?
A. They were kids, a name, through the years as kids ride their bikes through the driveway and everything and get down there to hide once I came up there to catch them. I just tell them ask where they live send them home, you're trespassing.
Q. Where did they tell you they lived?
A. Keedysville.
MR. PEMBROKE: Objection. Relevance.
THE COURT: Well, his answer is Keedysville. Overruled.
Q. And they were riding their bikes over Parcel 3?
A. Sometimes.
Q. Ever since you owned it?
A. Not anymore, no.
Q. How long - - How long did they do that for since you owned it?
A. Off and on several years several times.
Q. Is that ten years?
A. Approximately.
Q. So, a period, till 1998?

A. Approximately.
Q. Approximately when - - Do you know when approximately Rockingham Development was built?
A. Not exactly.
Q. And you said Stonecrest site was developed in 2005?
A. Preliminary groundworks were.
Q. What were the preliminary groundworks? What did that involve?
A. Curb and gutter, blacktop, septic and sewer or well hook up.
Q. Okay, so we can - - After you saw Stonecrest being developed did you ever see anybody riding their bikes, walking, moving through Parcel 3?
A. No, not really.
Q. Did you ever mow Parcel 3?
A. After that I mowed it off and on for a period of thirty-four years when I felt like it.
Q. Did you see any tree stumps after May 29th when my agents came with a bobcat and cleared it?
A. There were some tree stumps, yes.
Q. How large were they?
A. Approximately four to six, eight inches diameter.
Q. Okay, was that, that wasn't an area you were mowing where there's tree stumps?
A. No, I can't mow trees.

Q. Can you describe where they were?
A. Mostly at the north end.
Q. North of Mr. Ickes' property?
A. Yes.
Q. Okay, so you hadn't mowed anything north of Mr. Ickes' property after the site work was developed at Stonecrest?
A. No.
Q. Never mowed anything north of Mr. Ickes' property?
A. I tried, it was too rough, too, too, you know, congested.
MR. HOLDER: No further questions, Your Honor.

END OF CROSS EXAMINATION BY MR. HOLDER

THE COURT: Mr. Kline.
MR. KLINE: Thank you, Judge.

CROSS EXAMINATION BY MR. KLINE

BY MR. KLINE:

Q. Mr. Young, I just want to go over so I'm sure because the map, while it's nice and clean, that's not what it really looks like quite frankly. You purchased back in '88, 1988, you purchased this panhandle and this Parcel 1 with Parcel 3, correct?
A. And Parcel 2 because there was a deed overlapping.
Q. Down here.
A. It was on my deed. It was on her deed. So,

essentially I purchased it.

Q. Just want to make sure.

THE COURT: I think when he was saying the panhandle he meant all the way to the river.

A. Well, he didn't depict that. He said it only went to Parcel 1 and Parcel 3.

THE COURT: Okay. Did you mean the whole thing from the road?

MR. KLINE: It's fine.

THE COURT: Okay.

MR. KLINE: It was just a leading question.

THE COURT: Okay.

Q. And I believe your testimony was that this road representing or this area going from, sorry Mr. Pembroke.

MR. PEMBROKE: It's okay.

Q. Going from the bottom left hand corner at approximately 7:00 o'clock, which is Parcel 2 – -

MR. PEMBROKE: The corner is obstructing; it's obstructing my view here. Thank you.

Q. Can you see that okay?

A. No, I just - -

THE COURT: Mr. Young, I'm going to hand you Plaintiff's 2.

A. Oh, thank you.

THE COURT: Okay, it's a copy of Plaintiff's 3.

A. Yes, I'm familiar with this.

Q. Do you like that one better?

A. Yea, that's the one I had Harry pay for me for.

THE COURT: Why don't you face that to him a little bit so he can see where you're pointing and he can review it on Exhibit 2 as well.

Q. Is that good for you?

A. Yes.

Q. So, I believe your testimony was when you purchased land in '88, and I'm looking at Plaintiff's exhibit 3, from the bottom left-hand corner to approximately 7:00 o'clock, coming up was overgrown and you had to cut it down and put gravel on it so that you could access the house over here on the righthand side of Parcel 1, is that correct?

A. Uh, yes.

Q. And at the time that you purchased this in '88 Parcel 3, which is this vertical line, going south to north was overgrown and impassable when you purchased it in '88.

A. Pretty much, yes.

Q. Okay, again, just making sure. So, this space in between these two lines where this finger, if you will, going south to north I believe you testified is approximately 12 feet wide?

A. That's what it says, yeah.

Q. Would you agree with that based, I mean twelve feet

is what, four paces?

A. Pretty much, yes.

Q. Okay. And according to this, it's four hundred and sixty-two and change feet, do you see that at the top, right-hand side?

A. Yes.

Q. So, it's approximately 12 feet wide by 462 feet, which would be about a 110, 120 yards. Would you agree with that?

A. Yes.

Q. And likewise, Parcel 2 and the panhandle your ingress, the way you get into your property because you testified that when you go to your house you come off of Dogstreet Road, go up Parcel 2 into the panhandle - - I'm sorry counsel.

MS. PEEPLES: I can see.

Q. Around on the bottom, if you will, up to the house.

A. Correct.

Q. And that way in is again approximately 12 feet by looks like, looks like the sum of 274 and 479 were let's say 780 feet.

A. I believe it's 18 foot wide coming through.

Q. Okay. 18 feet.

A. Yea.

Q. But by 780 feet long.

A. Um hum.

Q. Okay, before you make the right to go down to your house, is that right as well?

A. Yea, the whole lane coming off of Dogstreet until it gets to the larger portion of Parcel 1, I believe to be 18 foot wide.

Q. Okay. That's fine, that's fine. And this was when you purchased the house obviously you got a heck of a deal because the house needed work, the road needed work, this small Parcel 3 was impassable and the 10 point you said you purchased, I believe on direct, 10.36 acres.

A. That's what's on the survey, yes.

Q. Right. Okay. So, all of this equals including these two little fingers, I'm going to call them fingers, or little, this going north and this going, I don't know, southwest to, I don't know, farther down - -

THE COURT: To Dogstreet.

Q. To Dogstreet doesn't make up the bulk of the 10.36, would you agree with me?

A. Say it does or does not?

Q. Does not. In other words, the 10.36 acres for the most part is in this big multi-sided - -

A. Yes, yes I agree.

Q. - - area space. Now, Stonecrest, everyone is using specifics, Stonecrest is here to the left. Would that be

fair?

A. Yes.

Q. Okay. And this was the development that occurred in ’05, or started in ’05, okay, and the people started living there in ’17?

A. Approximately, yes.

Q. Okay. And this part here on the bottom is the Rockingham Development.

A. A portion of it there’s two or three houses out along the side Parcel 2 that I don’t know if they - -

Q. So, as you come in this lane, I want to call it a lane.

A. Yes.

Q. It’s not on Main but there’s some homes there on either side of the (unintelligible).

A. I don’t if they are considered Rockingham or not.

Q. Okay, but for the big picture looking at it down this is Rockingham to the south for the most part.

A. Yes.

Q. And Stonecrest to the left or to the west for the most part.

A. Yes.

Q. And the Holder’s property, Justin Holder’s property, is up here in the north quadrant, would that be correct?

A. I believe so. Across the railroad track.

Q. I'm not asking you to draw it but it's up here for purposes of knowing where everybody is. And there's a - - You have the Baltimore Railroad going through here, correct as well?

A. Correct.

Q. Now, when you moved in you indicated you put up, I think under questioning, Mr. Pembroke asked you how many signs did you put up and you said approximately 20 to 25 I believe. Do you remember saying that?

A. At times, yes I did. Yes I do.

Q. And you started doing that for when you first purchased it in '88?

A. Yes.

Q. Okay.

A. Yes, I started putting signs up. After I had the survey and I knew where all the corner points were and I specified to have them iron pins in each indication where the circles are and I put signs up at each one of those and down through the other perimeter of the property.

Q. So, now you know where the pins are.

A. Approximately.

Q. And you know where the pins are because you went with a surveyor to show you the pins or were there stakes in the ground with orange little - -

A. Iron pins, stakes in the ground with orange tape on

them.

Q. So, after you put up twenty to twenty-five signs, this was impassable when you moved in in ’88.

A. You could walk – -

THE COURT: You mean Parcel 3?

A. It was very, very - -

THE COURT: Parcel 3 was impassable.

Q. That’s what he testified to.

THE COURT: Okay.

A. You couldn’t walk down without getting going through rose bushes and - -

Q. I understand. But, okay. So, it’s brush.

A. It’s not like walking down a sidewalk. You’re going to be going underneath, overtop, through everything.

Q. Yes.

A. Brush area.

Q. I’ve been to the woods.

A. Okay.

Q. Somewhat.

A. Okay, if you’ve been through tight stuff you know.

Q. Yes, anyway. So, when moved in ’88 you had, I’m going to say develop for a lack of a better word, clean-up this area so you could access the house to work on it for three to four years.

A. True.

Q. Okay. Now, did the work begin immediately on the house or did the work or did you buy it and you said to yourself well this is great I'm going to get around to it and it took some time before you start because you said you did electrical and siding and plumbing and you hire out some other people.

A. Correct.

Q. So, when did the three to four years start, once you bought it?

A. In the summer of '88.

Q. Okay, so, you bought it in August and you immediately start it.

A. Yes.

Q. Okay.

A. Yes.

Q. Now, we had a lot of questions about this Barbara Coleman and apparently she was your girlfriend in '87.

A. True.

Q. Is what you indicated. Now, and you talked to her about this same property before you bought it in '88.

A. Yes, I took her to her and found out went to the courthouse found out who owned it.

Q. Okay.

A. Wrote them a letter, called them up.

Q. So, in '87 before you bought it Barbara Coleman,

your girlfriend, was interested in this same property?

A. No. She was my girlfriend. I was buying it for us.

Q. Okay. So, did you have a discussion with her, I don't want to know what the discussion or what she said, okay, did you have a discussion with her saying, well this is interesting, we should investigate who owns it and what problems we may have? It's just yes or no.

A. Yes.

Q. Okay. And did you direct her to go out and get or to retain someone, again, I don't want to know what they said, but did you ask your girlfriend Ms. Coleman to go out and get some reports because we need to look at and do our due diligence before I or us, I being you sir, or us, being you and Mr. Coleman, Ms. Coleman, excuse me, decide to purchase this.

A. Her parents knew a title agent in Hagerstown.

Q. Okay.

A. And we approached him about.

Q. Okay, and was that title agent working at Western Maryland Title Services?

A. I assume he was, yes.

Q. Okay. So, when - - Was that gentleman's name Arthur Campbell, would that ring a bell to you?

A. I believe it was Mr. Campbell.

Q. Okay. So, when you spoke to Mr. Campbell - - Did

you ever speak - - Again, I don't want to know what Mr. Campbell said to you, but did you speak to Mr. Campbell?

A. Oh, yes.

Q. Okay. In reference to this, I'm not saying like hi, how are you, how was your weekend. I'm talking about with respect to this property.

A. Yes.

Q. Okay. And when you spoke to him did he say he generated a report for you at all?

A. Well, I believe he did. I believe what was sent to - -

Q. To Ms. Coleman?

A. Yes.

Q. Did you have - - So, you asked - - Did you speak to Mr. Campbell asking for the report or did you instruct Ms. Coleman to speak to Mr. Campbell for the report?

A. That's thirty-four years ago I don't recall exactly.

Q. Okay. Understood. But in - - I understand. I understand it's a long time ago. And I'm not trying to going to ask you any specifics but in some cases, um - -

A. I think it's a joint effort.

Q. Joint effort between you and Ms. Coleman. Did you have an opportunity to review Mr. Campbell's report that was sent to Ms. Coleman?

A. I'm sure I read it but I couldn't attest to know

what was in it after all this time.

Q. Understood. Now Mr. Holder has shown you a copy of the report. I believe its marked as Justin Holder's Exhibit 7. Can I have Exhibit 7? Forgetting what's on, just looking at, does this refresh your recollection whatsoever as to that report that you and Ms. Coleman may have discussed to obtain from Mr. Campbell a year before you purchased this property in '88?

MR. PEMBROKE: Objection.

THE COURT: Overruled. Does it refresh your recollection of asking for a report?

A. Um, somewhat, yes, but, like I say, we're talking thirty-four years ago and, you know, I've looked at hundreds and hundreds of pages and they kind of blended together by now.

Q. I'm sure. I understand litigation is difficult plus the years that have gone by.

A. And this specifies the different acreage when from what was surveyed too. So, that's neither here nor there I guess.

Q. Actually, do you remember having, now that you've raised it that's an important point, sir. Do you remember discussing the different acreage amounts with Mr. Campbell? Just yes or no, not what - -

A. Not really because I hadn't had, hadn't seen the

survey that Harry Wickline paid for so I didn't know exactly.

Q. The survey.

A. You know, what the acreage was.

Q. Okay. But that was after the fact. This - -

A. This was - -

Q. Timewise, chronologically - -

A. This came first.

Q. - - you and Ms. Coleman asked for that.

A. Yes.

Q. One, both or all of you, and then you decided to move forward with the purchase at or around the time of the purchase this plat, this survey, Plaintiff's 3, was generated?

A. Correct.

Q. When Stonecrest went in in '05, which is here, you indicated that they did some development work and put in, would have done some groundwork I'm sure for sewer and whatever, correct? (No audible response) And I think you said that you had a problem with them, the developer, Stonecrest, putting trash or debris on Parcel 3.

A. Well certain construction I had the same thing with Rockingham, the trash, the don't pick it up, bags and bags of trash blown over on my property. But after the development, I mean there's a certain amount of trash I picked up over the years that they did it and, uh - -

Q. Understood. And you said some vandals were in Parcel 1, as well.

A. Correct.

Q. Up in the top right hand corner I believe was your testimony.

A. Well, at the house they were all over. I mean you cannot stop teenagers and kids. Nobody, and nowadays does not recognize No Trespassing signs.

Q. Did you ever see the vandals or the people that disposed of the waste come into the property? In other words, you found it on your property or what you think is your property. I'm not trying - - Understand, you found the debris.

A. Correct.

Q. Did you ever - - Did you ever see anyone enter into Parcel 1, 2 or 3 and leave the debris or the vandals come in or leave? Did you ever see anybody go in or go out? Either one?

A. Yes, I seen people but I didn't, never would catch anybody throwing trash or construction debris on it.

Q. Did you ever see the way that they entered or exited the parcels?

A. From my advantage point from the house, I can't see anything. I can't see nothing. It's in a hollow.

Q. Okay. So, and I want to get to that in a second

because that's important too because this doesn't reflect, and you mentioned this a number of times when you were talking to Mr. Holder, it's not, there's a lay of the land that he's aware of and that you're aware of.

A. He's aware of it.

Q. That's what I just said. Everyone is aware of but I don't think the Court is aware of it. So, let's talk about that. This up here in Parcel 3 - -

A. Yes.

Q. - - this is cliff that falls off a good 80 to 100 feet?

A. Something like that, yes. Sheer cliff in places. Sheer rock.

Q. Okay. So, this finger, again, Parcel 3, moving north to south that's approximately 12 feet, however wide it is, but we think it's approximately that.

A. Well, the Parcel 3 is 12 foot but it's a little bit wider than that but then it drops off gradually to extensive.

Q. To the right or to the east?

A. To the right side, down to the creek.

Q. Correct. So, if you're going up, if you were to go from your house west to the left if you will and enter Parcel 3, which is the picture Mr. Holder showed you where it's been mowed, where you had some sticks laying across the front of it, that to the right of that picture is an 85, 80, 100 foot

cliff.

A. It's halfway down the driveway also.

Q. I'm sorry, so halfway down the driveway means?

A. From the 90 degree turn on my driveway, about halfway down, there's still a cliff.

Q. So, my fingers here - -

A. From that point from the curb, it's downhill all the way to my house.

Q. So, when you come up off of Dogstreet from Parcel 2 into the panhandle and make the right to go to your house, that immediate right is also a very steep - -

A. Steep cliff, yes, absolutely.

Q. Downward into over to your house.

A. Yes.

Q. Okay. So, when you were asked earlier that you didn't see anybody you heard, in this case, you heard Mr. Holder with the beep, beep, beep, of the backup of the backhoe but when he came to do the well in Parcel 3 you testified that you didn't hear anything you just saw him. Is that right?

A. Excuse me. The well?

Q. He said he had a well drilled. Well, he had asked you did you know that I had brought a well driller in for Parcel 3 and you said you didn't, you didn't hear nor didn't see it. I thought that's what you testified to.

A. I saw a sign that they left on my property. Negly left a sign.

Q. The well drum?

A. I don't know who put it there.

Q. But when you moved in in '88, I'm sorry, strike that. After Stonecrest - - Let me go back to Stonecrest. I'm jumping around. I apologize. Stay with me. Stonecrest goes in in '05, people move in in '17 or '18, correct?

A. Somebody, yes, approximately.

Q. And in '05 are they leaving debris in '05 or did you not notice the debris until closer to habitation in Stonecrest?

A. No, no, no. Not in '05. Everything is groundworks then. They kept all the debris on the property. When the housings started to be built and the debris was blown over, scrappings, you know piece of 2x4, anything they didn't want.

Q. I think you said you filled up a number of garbage bags with debris.

A. A number of garbage bags over the years.

Q. Was that '15, '16, was that '17, '18. Was that '05. We need some time here.

A. It was through the whole darn construction.

Q. From '05 to '18?

A. No, from '17 till just about last year, since everyone in there with exception of the gentleman that was

here before, all put fences up so they did not trash my property up. They kept it to themselves.

Q. When the trash went over, I think Mr. Holder asked you but not specifically to this, when the trash came over into your land, he asked you did you ever file No Trespassing or anything, did you ever send a letter to the contractor, developer, anyone in charge of Stonecrest saying, hey can you take care of the trash?

A. I may have spoken to a couple of them but I mean as far as anything illegal or calling the cops, no I did not. I didn't try to make waves.

Q. I understood that from your answer to Mr. Holder. My question to you was did you ever just take the, I'm going to say innocent approach, of sending a letter or an email to somebody saying there's trash coming over, we'd take care of it.

A. If I'd seen them do it I would have done it but there's no way to tell who did it so I did not.

Q. So, when you came into the property in 1988, you indicated there was a cattle fence approximately 50 feet, I'm sorry, 50 percent, on Parcel 3, is that approximately correct?

A. And then once the cattle got on there the guy put it to 100 percent.

Q. Yes, but it came down, it went back - - You never -

- And your testimony is you never really checked whether the fence was correct or not you just presumed it was correct because the guy preceded you in that space.

A. When you say correct I don't know what you mean.

Q. I'll ask the question again because I'm not sure how I used correct so instead of me guessing, I'll ask it again. When you saw the fence, which was 50 percent when you moved in, which then you're indicating subsequently became 100 percent because of the cattle, correct?

A. Could - -

Q. You presumed that the fence was correct because he preceded you to the western side of Parcel 3. Is that correct?

A. When you say correct, I don't understand the word in the - -

THE COURT: You used the word correct three times in one sentence.

A. Yeah, I don't - -

THE COURT: Do you believe - - I think what he's asking you - -

Q. Did you think the fence - -

A. Sufficient?

Q. - - was properly positioned because it was there when you moved in.

A. I assumed it was, yes.

Q. Okay.
A. Because all the old fence posts and metal posts were there.
Q. But you never, when you walked it with the surveyor and he did the pins to find out what - -
A. I did not walk it with a surveyor, they did it on their own.
Q. Okay.
A. After it was done I walked it. When it was surveyed I did not own the property.
THE COURT: Hang on.
Q. I'm sorry.
THE COURT: Wait for the next question, okay.
A. I'm sorry.
THE COURT: It's alright.
A. Just trying to clarify.
THE COURT: Understand.
MR. KLINE: One moment, Your Honor, I apologize.
THE COURT: Sure.
Q. I think you testified that at some point maybe after you mowed and your testimony was you mowed off and on, on Parcel 3, as and when you thought it needed to be mowed and I think your testimony was you mowed two 36 inch swats.
A. Approximately.
Q. Approximately. And I assume that's because your

riding lawn mower is 36 inches wide?

A. Yes.

Q. Okay, so there's a little bit of overlap, maybe a little less than 72.

A. Or less.

Q. At some point, at some point I think you indicated earlier that you then concentrate heavily on putting No Trespassing signs in Parcel 3 or was I incorrect it was on Parcel 2?

A. It was the whole Parcel 1, 2 and 3 I posted.

Q. Okay. So, it's 780 feet this way, on Parcel 2 in the panhandle. It's 462 feet on Parcel 3, which is approximately twelve hundred feet and then you have the perimeter, you have, uh, 8, you have the perimeter of the remaining bulk of 10 acres and you put up twenty signs total.

A. Approximately over the years, yes.

Q. Approximately twenty signs. And the signs are 8 ½ x 11 that you buy at Home Depot or Lowes?

A. Approximately.

Q. You didn't make them yourself.

A. No, they were regular printed metal signs.

Q. Okay, and they were just stapled or nailed into a stake that was put or did you - -

A. They were put onto a board.

Q. - - nail them to the tree?

A. Put it on a board, backing board, and nailed and screwed to trees and posts.

Q. The trees, okay. So, like what you see it says No Trespassing, No Hunting, No whatever.

A. Correct.

Q. Okay. And that would cover this whole perimeter of space, those twenty signs?

A. Approximately. Where visible to the eye within eye, searchers looking, you know, 50 yards apart or I seen traffic going through the woods.

Q. But Dogstreet, when you see traffic, this, the south area is Rockingham.

A. Um hum.

Q. And Dogstreet come around below Rockingham, correct, and then Dogstreet continues out here to Main Street and Antietam, which is over here, sort of winds around and comes to Main Street, and this is Stonecrest, right? So, seeing from Dogstreet and Antietam to your property would require somebody to look through Rockingham and Stonecrest.

A. I would imagine.

THE COURT: From where to where?

Q. If you're on Dogstreet.

THE COURT: Yea.

Q. Which runs the bottom.

THE COURT: I understand.

A. Yes.

Q. And comes up to Main Street, which is along the west side, would that be fair?

A. Yes.

Q. Okay. And Antietam sort of staircases out from the top west. If you're driving on, and over on your north east side is the railroad and Holder and Estes property, correct?

A. That's Estes' property. On beyond, on the other side of the creek is Holder's property.

Q. Right. I'm saying up here is Estes' and Holder. So, looking from the street from Dogstreet on the bottom and around to the left and Antietam on the left you can't, people on the road, the only way they can see your property, or was it fair to say, the only way they can actually see your property is by going up this 780 foot gravel road.

A. Yes, that's all inclined.

Q. All inclined because this is a cliff on this side.

A. Correct.

Q. On the side of Parcel 3 and it's a cliff over here on the right and you sit in the hollow.

A. Yes. I don't know about the right. It's a - - A railroad cut through many - -

Q. But the river cuts through the two main cliffs, if you will.

A. Correct. Yes.

Q. Okay. So, it's not flat. Okay. During the time that you or your family - - I assume you got a lot of family, I mean you got 10 acres, this must be fun. You got a creek running through the land or something, right?

A. Um hum.

Q. Did the family ever have any picnics or family gatherings on your property?

A. Several times. We had family reunions there.

Q. Excellent. So, during those times did you happen to take any pictures of the family gathering and perhaps, I mean, you got a creek right here that runs through very closely to your right edge, your far easter, and the creek runs through the north edge where the vandals are, as I understood your testimony.

A. Yes. Yes.

Q. Which is right by the cliffs, which I would think would be picturesque. Do we have any pictures of the family in these areas where perhaps the signs were in the background or maybe just an 8 ½ by 11 piece of white something?

A. All the signs were on the perimeter of the property. They wouldn't be interior.

Q. But this right here would be the exterior, the perimeter of your property.

A. Exterior, yeah. Perimeter is where the signs were put up.

Q. I understand. Okay. So, we don't have, not even the back of the signs, a picture of anything?

A. I think I sent you a picture of the paper on a, the one sign on a particular Parcel 3 with poster I put up to the tree that got tore off and the sign was tore off I had to replace it on Parcel 3. I speaking to David though. I put as far as the - -

THE COURT: Just answer the question. Answer the question. You don't have any pictures?

Q. You don't have any pictures?

A. No, I do not.

THE COURT: Okay.

A. Other people do. I'm not a picture person.

Q. Just one last question, which will thrill you to no end that Mr. Pembroke is going to ask you some question, I'm sure. At this top point where Parcel 3 comes up, the finger comes up and this line comes over, this off to the left is Harris Lane, is that right?

A. I don't know. Not to my knowledge. I think I read it one time on one of the discoveries but I never knew what it was.

Q. Okay. When you moved in was there a lane or a blacktop road here?

A. No. No.

Q. It's always been dirt, grass, brush, something?

A. It's in a lot of particular properties like a couple dump truck loads of boulders as big as Volkswagens.

Q. When you walked the property with Mr. Holder, did he show you the stone here at the top portion of the property?

A. The stone?

Q. Yeah. This magical stone that's at issue.

A. He's shown me some stone down on DNR property looked like it was just propped up but I don't know. It didn't have any markings on it that I can recognize.

Q. I understand. But he said this is the stone and you said you didn't recognize it.

A. It's not on my property.

Q. As it didn't mean anything to you.

A. I didn't recognize it.

Q. Understood. But I'm saying he did show you the stone at the time when you were walking with Mr. Holder.

A. He showed me a stone. I don't know about the stone.

Q. Understood. I got you. Did he show you the tree down here at the bottom where you would make a right to go to your house?

A. Trees?

Q. A Hickory tree.

A. Pardon?

Q. A Hickory tree.

A. A Hickory tree, I don't have too many - -

Q. Is there a Hickory tree down here at the bottom, an old Hickory tree?

A. I don't have too many Hickory trees on my property, no.

Q. Okay.

A. I don't recall that.

MR. KLINE: Your Honor, I'm going to move for admission of Justin Holder's Defendant's exhibit 7, which is the title report.

THE COURT: Any objection?

MR. PEMBROKE: Same objection. I believe he indicated that, he indicated that he had spoken to Mr. Campbell. He's not sure about the communication between he and Barbara Coleman. His previous testimony was he remembers seeing something. Still could not identify that particular document. And I don't think that it was sufficiently identified during Mr. Kline's examination either.

THE COURT: Mr. Kline, do you wish to be heard?

MR. KLINE: I do, Your Honor. Before when it was attempted to be admitted they didn't have the connection of Barbara Coleman, his girlfriend. We now know that Barbara Coleman, who the report was written to was his girlfriend. He's admitted that on the stand. That was a direct answer that was given. We do have testimony from Mr. Young that in fact he and or Ms. Coleman who is for the benefit or use of

this report actually sought out Mr. Campbell. Mr. Young has indicated that he knows Mr. Campbell, that he knows him to be a title company, person or a title agent and that he and or Ms. Coleman reached out to Mr. Campbell to produce such a report. The fact that he doesn't know what the report is thirty-five years later, I have no question of that. But the fact that it covers the same property and in fact Mr. Young indicated there was a discrepancy on the acreage, which indicates a specific knowledge when there is a discrepancy on the acreage between what is reflected in Justin Holder's exhibit 7 and what is reflected on the plat with the survey. And Mr. Young went on to further indicate that the acreage was because he didn't see what it was at the time and that this was done subsequently. So, I think there's appropriate foundation that he knows about it. He's authenticated to, went to, who it's from and the fact is that he did it in advance and in preparation for purchasing the property. Thank you.

THE COURT: My recollection of the testimony is that he did know who Western Maryland Title Services was. That the report was created at his behest or his girlfriend's behest and he knew about it even if it was the girlfriend. That it was sent to one or both of them and that he read it at the time. I see nothing that suggests that it is not authenticate or not germane and his recollection of

remembering that there was an acreage issue of certainly sparked for me that he recalls having seen this and that this was the report that was received. Justin Holder, number 7 is admitted.

(Defendant Justin Holder exhibit 7 was admitted into evidence)

THE COURT: That's all the questions for you?

MR. KLINE: Yes, thank you Judge.

END OF CROSS EXAMINATION BY MR. KLINE

THE COURT: Mr. Pembroke, do you wish to follow-up, sir?

MR. PEMBROKE: Yes, Your Honor. Could we take a five minute recess?

THE COURT: Sure.

MR. PEMBROKE: Thank you.

THE COURT: Five minutes folks.

(Whereupon at 2:45 p.m. court was in recess and resumed at 2:53 p.m. and the following occurred in open court:)

THE COURT: Everyone have a seat please.

MR. KLINE: Your Honor?

THE COURT: Yes, sir.

MR. KLINE: Excuse me, sir. I apologize. We have a development that we would like to discuss with Your Honor privately. I think it would be best not to be out in the open if possible.

THE COURT: In chambers you mean?

MR. KLINE: Yes, please.

THE COURT: On the record?

MR. KLINE: Yes, please. Or excuse everyone out like a CINA case and we can do it right here. I'm okay with that. Obviously the law clerks can stay.

THE COURT: Attorneys only?

MR. KLINE: Attorneys only, yes.

THE COURT: Mr. Young, you just heard the attorneys indicate to me - - Is this something you would like to do Mr. Pembroke?

MR. KLINE: He doesn't know.

MR. PEMBROKE: I'm in the dark.

THE COURT: Oh. Mr. Young, do you mind stepping down from the witness stand and going out in the hall? Don't discuss your testimony with anyone, okay?

MR. YOUNG: Yes, sir. Outside?

THE COURT: Yes.

(Whereupon Mr. Young leaves witness stand and exits courtroom at this time)

THE COURT: Ms. Holder, you too.

MS. HOLDER: Okay. (Exits courtroom)

THE COURT: Now, hang on a second. It's a little odd that I just kicked out two of the parties but I got another party sitting there and he gets to stay here just because

he's pro se.

MR. HOLDER: I can go.

MR. KLINE: Understood.

THE COURT: Hang on. Are you okay if he leaves?

MR. KLINE: I'm okay if he leaves.

THE COURT: Because otherwise I think the parties all should be in here. We're just having a conversation of attorneys known as just attorneys.

MR. HOLDER: I agree.

THE COURT: Step out there Mr. Holder. Stay close. Don't talk to anybody okay, Mr. Holder?

MR. HOLDER: Yes, Your Honor. (Exits courtroom)

MS. PEEPLES: Sorry, Your Honor.

THE COURT: It's okay, it's okay. Alright, what is this about?

MR. KLINE: Your Honor, I was advised after the break from Deena Holder that Mr. Young was discussing his testimony with his step-son and his wife.

THE COURT: At which break? This break?

MR. KLINE: At lunch break.

MS. PEEPLES: Lunch. It was after lunch.

MR. KLINE: It was after lunch.

THE COURT: Okay.

MR. KLINE: I just was apprised of it during this five minute break. I don't know what was discussed. Deena Holder

is the one that saw that, that witnessed it, although she's out in the courtroom. Again, I don't know the length of it. I know the Court, I asked for the sequester of jurors (sic) that the Court granted and admonished - - I'm sorry, not the jurors, excuse me, the witnesses, admonish the witnesses not to discuss it. She, Ms. Young and the step-son are Plaintiff's witnesses. We're asking for the Court to exclude them from Plaintiff's case.

THE COURT: Well, I think I would have to take some evidence as to what Ms. Holder heard and what Ms. Young's position on it is. Maybe they were - -

MR. KLINE: And that's fine but I just want to - -

THE COURT: - - just discussing that it's really hot in the courtroom. I don't know.

MS. PEEPLES: And, Your Honor, I would just like to add to Mr. Kline's, um, statement, that I was just advised during this past restroom break by Mrs. Holder that she had heard something and that's when I went to Mr. Kline and told him. I know she heard specific things but she did not go into great detail. She said she was returning from lunch and she heard specific things relating to the testimony.

THE COURT: Okay. Mr. Pembroke. Do you know anything?

MR. PEMBROKE: Absolutely nothing, Your Honor.

THE COURT: Okay.

MR. PEMBROKE: About this subject.

THE COURT: About this subject. Well, I think I need to have Deena Holder come in here on the witness stand and be under oath and tell me what she heard.

MS. PEEPLES: I'll go get her.

THE COURT: Okay.

MR. PEMBROKE: Your Honor, I think under the circumstances since it's alleged that essentially it's my client's wrongdoing, I think he should be allowed to hear her testimony especially if he's going to respond to it in some way.

THE COURT: Go get him. Mrs. Holder, come take the witness stand. Wait until Mr. Young comes in. Just wait until Mr. Young comes in. Mr. Young, sit down at that counsel table with Mr. Pembroke. Mr. Joliet, stay outside please for me.

MR. JOLIET: Okay.

THE COURT: Mr. Young, I want you to understand what's happening. There's been a suggestion that after the lunch break you had been having discussions with people about this case or that your trial testimony so I'm going to look into it now. Okay.

MR. YOUNG: I talked to people. I did not discuss anything pertaining to the case.

THE COURT: Okay, ma'am, stand up. Raise your right hand.

TESTIMONY OF DEENA HOLDER

Deena Holder, having been duly sworn, did testify as follows:

THE COURT: Ma'am, give me your full name please.

A. I'm Deena Adrian Holder.

THE COURT: And your address?

A. 308 West Chaplin Street, Sharpsburg, MD.

THE COURT: You're one of the parties in this case?

A. Yes.

THE COURT: It has come to my attention that you claim to have overheard Mr. Young having conversations with other people in the hallway?

A. Yes.

THE COURT: When was that?

A. When I came back from lunch I come up the steps and I went into the bathroom. I heard him talking, not specifically about what, but then when I came out I heard him, um, mention something about clearing to a point or to a corner and I tried not to eavesdrop but it certainly sounded like he was talking about the case to the two other witnesses that were waiting in the hall.

THE COURT: So, as you, as you came in, you went into the bathroom. This will sound like a dumb question but when you were inside the bathroom you could maybe hear voices but you couldn't hear anything specific?

A. I didn't hear anything specific inside the bathroom.

THE COURT: Okay. You then left the bathroom?

A. Yes.

THE COURT: And when you exited the bathroom where was Mr. Young standing?

A. Um, he was standing at the, when you come out of the bathroom the door to in here is here and he was standing at the corner of where the bench is that goes back that way.

THE COURT: And to whom was he talking do you know? Do you know them?

A. I know of them when they announced their names in the court. Um, Cheryl Young and Jesse Downs.

THE COURT: What specific words did you hear Mr. Young say?

A. Something to clear to a corner.

THE COURT: Say that again. Clear to a corner?

A. Yea.

THE COURT: Okay.

A. Like they were talking about having done something up to a certain point.

THE COURT: Okay. What other - - What other words did you hear other than clear to a corner?

A. Um, he and that was at - -

THE COURT: And the word he?

A. Yea.

THE COURT: Anything else that you heard?

A. No. I was trying not to, I was trying to mind my own business and just come in.

THE COURT: Okay, and is that generally what you expressed to the attorneys that that's what you heard?

A. Yea.

THE COURT: Okay. Any questions?

MR. KLINE: No, Your Honor.

MS. PEEPLES: No, Your Honor.

THE COURT: Mr. Pembroke?

BY MR. PEMBROKE:

Q. Mrs. Holder, you just claimed you heard those two comments?

A. Yes.

Q. Clear to a corner?

A. Yea.

Q. And doing something up to a corner?

A. Yes. It was - - Yes.

THE COURT: I think that's all one comment.

A. Yea.

THE COURT: Clear to a corner is one comment. Then she heard the word he.

A. Yea.

Q. Okay, I'm sorry. That's why I was - - Okay, so it was one, one sentence or one phrase?

A. Yes.
Q. And then the word he?
A. Yes.
Q. And how far away were you when you from him?
A. I was coming out of the bathroom which was on the opposite side of where the bench was that that they were all standing around.
Q. Can you tell me in feet?
THE COURT: Can you approximate how many feet away?
A. Maybe three, maybe.
Q. Okay. Was it in a straight line or around the corner?
A. He was standing at the corner and they were around the corner.
Q. Thank you.
THE COURT: Okay, Ms. Holder, you can step down.
A. Okay, thank you.
THE COURT: Be careful getting down, okay.
A. Sure.
THE COURT: You may stay in the courtroom, ma'am.
MS. HOLDER: I can, okay.
THE COURT: Mr. Kauffman, you go get Justin Holder. Mr. Kline, do you wish to be heard?
MR. KLINE: Only that when I raised this as Ms. Peeples indicated I was just told of a conversation that had

occurred. I didn't know what the substance of it was.

THE COURT: Understood.

MR. KLINE: Having heard and of course as the Court is well aware, was only a five minute break so not much was discussed. Having heard what the discussion was - - You can sit down - - Having heard what the discussion was clearing to a point or clearing to the edge or clearing to the whatever, obviously clearing by itself has a legal meaning it's very important in this case which concerns me because it would support Mr. Young's testimony that a clearing had occurred which would show obviously open, hostile, continuance, you know, use of land to satisfy that the adverse possession elements. I'm only concerned that the repeating of that potentially during the Plaintiff's case would add further support that perhaps was not there prior to. And I think that's an unfair prejudice to the Plaintiff, I'm sorry, to the Defendant, excuse me, and I believe the Court has within its discretion to fashion some remedy and I don't think an admonishment is enough and then let her take the stand or even, even both of them could be admonished is not enough. They have to be excluded as far as the Plaintiff's case goes. If we choose to call them that's something else but as far as their case goes. Thank you.

MS. PEEPLES: Your Honor, I'll just concur with Mr. Kline and just add one specific point to the extent that Mrs.

Holder was trying to be consciousness and mind her own business.

THE COURT: Well, I think she was.

MS. PEEPLES: I think she was too. It's suggestive of a fact that discussion concerning this case happened and she may have only heard, there's no way to know the full amounts of what was being discussed during that small time frame. But it's suggestive of the fact that other conversations may have been had, which then could prejudice the witnesses going forward.

THE COURT: Okay, Mr. Pembroke.

MR. PEMBROKE: Your Honor, I think before the Court rules I think we should get Mr. Young's version of what did or didn't happen.

THE COURT: Very well. Have him take the stand.

TESTIMONY OF JEFFREY YOUNG

(Still under oath)

THE COURT: Mr. Young, you're still under oath, okay.

MR. YOUNG: Yes, sir.

THE COURT: Mr. Young, you've heard an indication here that Mrs. Holder overheard a discussion as she exited the ladies room. You were standing at the corner of the hallway, just outside these doors. Mrs. Young and Mr. Downs were just around the corner and she heard the words, "clear to a corner". And she heard the word "he". Now, I've instructed

you multiple times today to not discuss this case with anyone when you were not on the witness stand. Do you wish to explain to me what happened, sir?

MR. YOUNG: Yes, I will explain. When you said do not discuss the case I did not discuss the case whatsoever and to just now when you took your last five minute break you said don't talk to anybody. I wasn't aware I couldn't converse about the weather or what we were going to have for dinner.

THE COURT: Right.

MR. YOUNG: I don't recall some clearing, I surely did not say anything pertaining to this case per your orders. I don't know what she heard.

THE COURT: Were there any words similar clear to a corner or clearing down to a corner or to the corner.

MR. YOUNG: We were just talking about general things. I didn't say anything that be taken out of context.

THE COURT: What were you talking about? Now, this was when we came back from lunch. What were you talking to your wife about?

MR. YOUNG: Just they were wondering whether or not they were going to get to testify. I said I don't know. I mean, you know, just general conversation. But I did not, per your orders, talk to anybody about anything pertaining to this case. I talked to - - I wasn't aware I couldn't say nothing to them. I was not aware of that.

THE COURT: So, what did you say?

MR. YOUNG: We talked about the weather, we talked about what we were having for dinner, I mean, just general conversation.

THE COURT: Do you recall the words "clear to a corner" or anything of that nature?

MR. YOUNG: Not, not really. I don't know. I may have said that pertaining to something else but I can't verbalize, tell, you know, verbatim what exactly the context talked to in. I didn't know I could not talk generally people, you know I knew absolutely that I could not talk anything pertaining to the case.

THE COURT: Okay, Mr. Pembroke?

MR. PEMBROKE: No, Your Honor.

THE COURT: Mr. Kline?

MR. KLINE: The conversation occurred after lunch. Do you remember talking to your wife and what's the gentleman's name?

THE COURT: Mr. Downs.

MR. KLINE: Mr. Downs. Do you remember talking to your wife and - -

THE COURT: I was not aware I could not talk about anything.

MR. KLINE: Excuse me. I'm sorry, but that's not my question. The question is when this discussion occurred was

it after lunch or before lunch? Before you went to lunch or after you came back?

MR. YOUNG: Discussion?

MR. KLINE: Did you go to lunch. I'll back up. Did you go to lunch with your wife and Mr. Downs?

MR. YOUNG: No, I did not. I stayed here.

MR. KLINE: And they went to lunch?

MR. YOUNG: No, they stayed here.

MR. KLINE: And did you spend that time period approximately an hour with your wife, Mrs. Young, and Mr. Downs?

MR. YOUNG: I stood out there on the bench I was there, there were there.

MR. KLINE: And you talked to them during that one hour period?

MR. YOUNG: Yes, but not anything whatsoever pertaining to the case. I wasn't aware that I could not speak to anybody.

THE COURT: Okay.

MR. KLINE: I have nothing further, Your Honor. Thank you.

THE COURT: Anything Ms. Peeples?

MS. PEEPLES: Nothing.

THE COURT: Okay. Anything else then Mr. Pembroke?

MR. PEMBROKE: No, Your Honor.

THE COURT: Okay.

MR. KLINE: Your Honor?

THE COURT: Yes, sir.

MR. KLINE: If I may?

THE COURT: Briefly. It's time to go.

MR. KLINE: Briefly. I understand. The last thing that was discussed according to my notes before we left for break was the conversation was dealing with Mr. Holder asking Mr. Young about the cattle fence and about mowing the path. And then there was a question about the title work and then we broke for lunch at 12:00 noon. So, the last thing we talked about that would deal with the adverse possession was mowing of the path after the cattle fence questions deal with Mr. Rinehart. I would suggest that the two are related.

THE COURT: Anything Ms. Peeples?

MS. PEEPLES: No, Your Honor.

THE COURT: Anything Mr. Pembroke?

MR. PEMBROKE: No, Your Honor.

THE COURT: Mrs. Holder, I want to thank you for bringing it to the Court's attention. However, having heard the testimony of Mrs. Holder and I think she was trying to mind her own business and that's fine, and I think she was truthful when she testified. But I also believe that, I also believe that Mr. Young is being truthful. And I don't hear enough here in this testimony to indicate that any witness

should be excluded. That's the ruling of the court. Okay. So, we are still with Mr. Young as a witness. And I think we're back to Mr. Pembroke, is that right?

MR. PEMBROKE: Yes, sir.

THE COURT: Okay.

MR. PEMBROKE: And I will endeavor to be brief.

THE COURT: Do what you want to do. Mr. Kauffman, will you have Mr. Joliet come back in if he wishes to.

TESTIMONY OF JEFFREY YOUNG

(Previously sworn)

REDIRECT EXAMINATION

BY MR. PEMBROKE:

Q. Good afternoon. Do you remember being asked about your Answers to Interrogatories earlier today?

A. Several, yes.

Q. Okay. And you remember, you remember working with me to create and file these answers, correct?

A. Yes, sir, so many of them I didn't understand.

Q. No, I understand. I understand. And you and I did work together on these did we not?

A. Yes, sir.

Q. And do you recall reading your answers before you signed?

A. Yes.

Q. Okay. And if you would I'm referring to Defendant's

exhibit 2, Justin Holder's 2, and Deena Holder's 1, for purposes of my examination could be the same thing. On the first page of the Answers to Interrogatories, would you read paragraphs b and c?

A. The information supplied in these answers and not based solely on the knowledge of the executed party it includes knowledge of the party, his agents, representatives, and attorneys underprivileged.

Q. Unless privileged.

A. I'm sorry. Unless privileged. And then C?

Q. C.

A. The word usage in sentence structure may be that of an attorney assisting in the preparation of these answers and not necessarily precise language under the executing party.

Q. Alright. And that's pretty much what happened when we did these, correct?

A. Yes, sir. Collaboration, yes, sir.

Q. You've testified significantly I think that you didn't spend a whole lot of time up on Parcel 3, correct?

A. No.

Q. But you were regularly up on Parcel 3?

A. Through the years, yes.

Q. Alright. And you indicated that when you first purchased the property Parcel 3 was pretty much impassable.

A. Pretty much.

Q. Alright. Is there a large pile of large boulders on this parcel anywhere?

A. Not on Parcel 3.

Q. Okay, where is there a large - -

A. I believe it's on the Morral's property.

Q. And where is that located?

A. Stonecrest.

Q. Okay, off of Parcel - -

A. I don't recall what parcel they have.

Q. Near - - But what's - - No, not their lot number. Where on your property is closest to their property? What Parcel?

A. 3.

Q. Okay. So, the stones are off of Parcel 3 on their property?

A. They're not on Parcel 3. They're on - - I assume they're on their own property.

Q. That's what - - Okay.

A. Yes.

Q. I'm sorry. So, the boulders are on their property adjacent to Parcel 3?

A. Correct.

Q. Alright. And did you ever see Mr. Justin Holder up on that pile of boulders?

A. Him and I walked through it one day. We were

showing, he was showing the area and we were on Parcel 3 where he had cleared.

Q. Alright. And when you were aware that Mr. Holder and his crew were on your property with the equipment you said that you told them to get off essentially?

A. Yes.

Q. Correct?

A. I first asked them what they were doing, why did they think they could clear my property.

Q. Okay.

A. He wasn't available. And they called him. And waited awhile then he showed up with the DNR guy.

Q. Okay. But did at some point you tell them to leave?

A. Yes, I did.

Q. Why did you tell them to leave?

A. Because I felt that they were trespassing had no indication that he had any rights to my Parcel 3 until he showed me a paper, which I couldn't describe. I couldn't read.

Q. Okay. Now, you were asked about whether or not Mr., I believe he pronounces his name Ickes, mowed any part of Parcel 3.

A. Yes, he did.

Q. Okay. When did he do that?

A. Probably after, after they moved in a short while

after then they had cleared the area and planted some shrubs.

Q. Do you know when he moved in?

A. I do not.

Q. Do you know when the first resident of Stonecrest moved in?

A. I do not.

Q. Okay. Did you ever give him permission to mow?

A. Yes.

Q. Okay. When did you do that?

A. After I seen that he had created a little yard on the little garden area. I said it looked nice, I mean, it looked better than the other growth.

Q. How long after you were aware of his activity on the property did you give him permission to continue to do it?

A. The day that I saw he was taking care of my property.

Q. That was the first time?

A. Yes.

Q. Was there ever a time where he strung a cord of electric lights over onto your property?

A. Yes.

Q. Okay, and did you give him permission to do that?

A. Yes.

Q. Okay.

A. It was quite decorative.

Q. I'm sorry?
A. It was quite decorative. You could see it at night.
Q. Did he ask you for permission or did you just give it?
A. I just gave it to him.
Q. Okay. Mr. Holder's exhibit 6, that's the photograph, okay, do you remember what that looked like?
A. Yes.
Q. Okay. I believe your testimony was that, well, if I could see it. I'm showing you Defendant Justin Holder's 6. This is the photograph.
A. Yes.
Q. Now, you put the - - who put the branches across the way here?
A. I did.
Q. Okay. And for what purpose?
A. To keep people off of it from driving down there.
Q. Alright. And it appears that there is some sort of a lane that goes down into, I'm going to say the tunnel, which is the light area in the middle of the photograph, okay. Was that the result of Mr. Holder's activity here or was that there before?
A. I believe it was because there was piles of dirt from the excavators from people from the construction company working on the houses where they dumped across here. And

that was visible for a long time. And then they got it leveled out by his equipment.

Q. Prior to his being on the property, okay, was there any visible sign on the ground at that point of a path or a lane through this area?

A. Just a small walk path that you could probably get through.

Q. Okay. And was the foliage around this area by the path that's visible was that the same before he entered the property?

A. No, it was all cut out.

Q. This was the result of him cutting it out?

A. The majority of it, yes.

Q. So, it was worse than this before?

A. Oh, yes.

Q. Alright, how much worse?

A. Well, you would barely get through it walking with the rose bushes and the tree limbs and everything.

Q. Okay. Could you do you believe you could get through it with your riding mower?

A. Well, I had trimmed it out when I had the riding mower going through there the lower branches so they wouldn't slap me in the face.

Q. But that had been some time before this.

A. Sometime before, yes.

Q. Alright, well about when he was on the property in the Spring of 2020, do you think you could have gotten your mower through it?

A. No.

THE COURT: May I see 6?

Q. Do you believe that Mr. Ickes would have mowed property on Parcel 3 at any time prior to 2017?

MR. KLINE: Objection.

THE COURT: Sustained. It was the way it was phrased.

MR. PEMBROKE: Understood.

Q. Can you give us a time frame of the first time that you observed someone else had mowed part of Parcel 3?

A. Probably, not really. I mean it was within a year or two, maybe.

Q. A year or two of what?

A. Of this, in ’20, 2020, maybe.

Q. Okay. Alright. Now you were asked about tree stumps on the north, north end of Parcel 3.

A. Yes.

Q. Okay. Were there No Trespassing signs up in that area in the Spring of 2020?

A. Yes, at the very end of it.

Q. And can you physically describe the No Trespassing signs in terms of size and color?

A. Well,, they’re bright orange and black,

approximately 10 inches by 11 or 12, metal.

Q. Alright. What, which of those colors is the actual sign as opposed to the lettering?

A. Well, they are black and orange, I believe the letters are orange.

Q. Okay.

A. Outlined with black.

Q. Easy to see?

A. They should be.

Q. Okay. Did you post them in an area at a height that would have been, that you thought would be conspicuous that anybody coming around would see them?

A. Approximately eye level. A little bit below 4 or 5 foot.

Q. And I believe you testified essentially that you have no knowledge of Harris Lane?

A. Just what, uh, one of the last discoveries described it as a Harris Lane.

Q. Is it fair to say you didn't see any physical indication of a location of this Harris Lane?

A. I didn't see any signs put up that said Harris Lane, no.

Q. No, that's not what I mean. Did you see any signs on the ground?

A. No.

Q. That there's a path or a roadway or a lane?

A. No lanes or path. Maybe a path for the deer path but no vehicle path.

Q. Alright, thank you. I have no further questions.

END OF REDIRECT EXAMINATION

THE COURT: Okay, let me make sure I don't have any. Stay right there for me Mr. Young.

MR. YOUNG: Pardon me, sir?

THE COURT: Stay right there for me, okay?

MR. YOUNG: Okay.

THE COURT: Sir, you may step down and take your seat.

END OF TESTIMONY OF JEFFREY YOUNG

THE COURT: Okay, counsel, where are we going now? I believe we have Ms. Hildebrand out in the hallway but we also have Mr. Joliet here.

MR. PEMBROKE: Well, we did promise Ms. Hildebrand that she could testify this afternoon, Your Honor.

THE COURT: Okay. Sorry, Mr. Joliet. Okay. So, we are taking witness out of order, is that correct?

MR. HOLDER: Yes.

THE COURT: And this is - - What is her name?

MR. HOLDER: Jessica Hildebrand.

THE COURT: Jessica Hildebrand is a defense witness that you are calling?

MR. HOLDER: She's a defense witness for rebuttal, yes.

THE COURT: Okay. We have agreed that we will take her out of order probably based on her schedule. Mr. Kauffman, Ms. Hildebrand please.

TESTIMONY OF JESSICA HILDEBRAND

Jessica Hildebrand, having been duly sworn, did testify as follows:

THE COURT: You don't need to yell. Okay. Just make sure that the attorneys finish their question before you start answering. Okay. Ma'am, will you state your full name?

A. Jessica Ann Hildebrand.

THE COURT: And what's your address?

A. 1, oh my gosh.

THE COURT: Take your time.

A. 14 Stonecrest Circle.

THE COURT: 14 Stonecrest.

A. We just sold our house so 114.

THE COURT: But you lived in Stonecrest?

A. Yea.

THE COURT: Do you live in Stonecrest anymore?

A. We do, currently, yes. We have rent back to end of July.

THE COURT: Okay, so you're moving.

A. We are moving.

THE COURT: Do you remember what lot number you bought?

A. No.

THE COURT: Okay. Okay.

DIRECT EXAMINATION

BY MR. HOLDER:

Q. Ms. Hildebrand, is Charles Blancato your neighbor to the north?

A. He is our neighbor to the right.

Q. If you're looking out your front door he's to the right?

A. Correct.

THE COURT: So, she's lot 15.

MR. HOLDER: Correct.

THE COURT: Hildebrand, okay.

Q. And was there ever a time you owned another home in Stonecrest with a different lot?

A. Yes.

Q. Okay, which lot was that?

A. It was the lot to the left of our house now.

Q. Okay.

THE COURT: Lot 16.

MR. HOLDER: Correct.

THE COURT: Okay.

Q. And when did you move into Lot 16 in Stonecrest, the first house?

A. Um, I would say six years ago.

Q. Okay. And when you moved into that lot did you see any No Trespassing signs behind your house?

A. Not that I recall.

Q. Okay. Who was your employer at the time you moved in?

A. At the time I moved into Lot 16?

Q. Correct.

A. Dan Ryan Builders.

Q. How long did you work for Dan Ryan Builders?

A. I worked for Dan Ryan Builders, three years, two, three years.

Q. Okay. And did you work for Dan Ryan Builders when you bought that house at Lot 15?

A. Yes.

Q. What was your job at Dan Ryan Builders?

A. I was in sales.

Q. Were you in charge of sales for the Stonecrest Development?

A. No.

Q. Did you know - - Did you work with Matt Powell?

A. Indirectly. Not directly.

Q. Did you know Dan Ebersole General Counsel at Stonecrest?

A. No. Do I know - - I'm sorry. Can you repeat that?

Q. Dan Ebersole, General Counsel.

A. No.

THE COURT: I'm sorry. What was the answer?

A. No.

THE COURT: Okay.

Q. Can you describe the area behind your property on Lot 16 and Lot 17 at Stonecrest?

THE COURT: Lot 15 and 16.

Q. I'm sorry. Lot 15 and 16.

THE COURT: So, 16 was the first house she bought. She then, maybe she sold that one and bought 15 or she bought 15 built a house sold 16 now lives in 15 now sold 15? Is that right?

A. Correct.

THE COURT: So, he's asking describe the area behind both of those lots during your ownership.

A. The area behind both lots it's, there's a lane, it's a little wooded and there's a lane and then past the lane there's the other development.

Q. Have you ever met the Plaintiff, Mr. Young?

A. I have not.

Q. Have you ever seen the Plaintiff, Mr. Young, behind your house?

A. No. Maybe once.

Q. What was he doing?

A. I believe the only time I saw him he was in a truck

and I can't even confirm if that was him or not.

Q. Okay. How many different types of vehicles have you seen on that road?

A. Very few, maybe a truck. I don't really pay attention.

Q. Did you ever see any cables or gates places across the road?

A. No.

Q. Okay.

A. I have never even been back on that road.

Q. Okay. That's all the questions I have for you.

END OF DIRECT EXAMINATION

THE COURT: Okay. I guess we will go to Mr. Pembroke.

CROSS EXAMINATION

BY MR. PEMBROKE:

Q. If you haven't been back there how do you know there's a road?

A. Because you can see it.

Q. What do you see?

A. Well - -

Q. What are your observations from your home?

A. It's just the woods. I mean, it's scarce. It's thin. And then you see a lane. And then you can see the neighborhood. I mean I can see their backyards as well. So, I just, I don't go back there. I'm not walking through the

woods, I mean they're not woods but, I just don't go back there. But you can see it. You can see it from the second floor.

Q. Is there a fence across your backyard?

A. Across our backyard now, yes. We have a privacy fence.

Q. And what is it made of? Is it wood?

A. It's like that plastic material. Vinyl.

Q. Does it run the entire length of your backyard?

A. It's a portion of our back - - I mean it runs in the back yard and it's squared off. Does it cover the complete property line? I can't answer that because I don't know.

Q. Alright, not talking about the sides. But just across the back. Do you believe that it covers the entire length of the back portion of your property?

A. No, because there's a space between our current home now and our old home and it does not connect, it doesn't go the entire property line.

Q. Okay, were you involved in the development of the Stonecrest project?

A. No.

Q. So, you know how many other residents had already moved in when you first moved into Lot 16?

A. So, Lot 16 was my old house, correct?

Q. Yes, ma'am.

THE COURT: Yes.

A. Okay, when we - -

THE COURT: Lot 16 is sort of near the entrance of Stonecrest, right?

A. Okay. Second home on the right.

THE COURT: Okay. Yes. So, you back up - - Never mind. She backs up to the panhandle not Parcel 3. Okay. Go ahead. So, you moved into Lot 16. I think the question from Mr. Pembroke is, how many of the houses were in the neighborhood when you started construction on 16 and then moved in?

A. When we moved into Lot 16 the community was probably, I would say, around seventy percent complete, sixty to seventy percent complete. There were only a handful of lots remaining.

Q. Okay, were people, were people residing on the lots?

A. Yes.

Q. Or were they just built and ready for occupancy?

A. No, they were living there.

Q. Okay. Alright. And you've indicated that - - Well strike that. Is it fair to say you don't spend a lot of time looking over at that property?

A. That is accurate.

Q. And you, I believe you said that you don't recall seeing No Trespass signs, is that correct?

A. That's correct.

Q. Alright. You've not saying they weren't there, you're just saying you don't recall seeing them.

A. I do not recall seeing them.

Q. So, they're could have been No Trespassing signs there that you didn't see.

A. There could have been.

Q. Okay. You weren't specifically looking for No Trespass signs, is that a fair statement?

A. That is fair. I - - Yea.

Q. Okay. Do you have any personal knowledge of what was or wasn't going on on that property from 1988 until the time you moved into Stonecrest?

MR. KLINE: Objection.

THE COURT: Overruled. Her answer is no.

Q. You may answer.

THE COURT: Her answer is no.

A. No.

Q. Okay, thank you. No further questions.

END OF CROSS EXAMINATION BY MR. PEMBROKE

THE COURT: Just so I can clear up. When did you move into the first house? Do you remember what year?

A. I would say six years ago. And we were only in it, we weren't even in it a full year.

THE COURT: Okay. So, six years ago is what? 2016? Roughly?

A. Yeah.

THE COURT: And so, you were in that house for about a year?

A. Not even.

THE COURT: Did you then build the house next door?

A. We did.

THE COURT: And you moved to that one?

A. Correct.

THE COURT: Sold the first one, and now you've sold the second one.

A. Correct.

THE COURT: Okay. Any questions, Mr. Kline?

MR. KLINE: I think I know the answer. Yes, thank you, Judge. I think I know the answer already but I'll ask anyway.

CROSS EXAMINATION

BY MR. KLINE:

Q. You never walked out the back of your yard, walked through the brush, gone through the lane, made a left and go out into the sphinx space, is that fair to say?

A. That is fair to say.

Q. I have nothing further.

END OF CROSS EXAMINATION BY MR. KLINE

THE COURT: Ms. Peeples?

MS. PEEPLES: I have no questions, Your Honor.

THE COURT: Mr. Holder, you called the witness and therefore you get the last word. Do you have any other questions based on the questions that have been asked?

MR. HOLDER: Uh, no, Your Honor.

THE COURT: Okay. Is Ms. Hildebrand is free to go?

MR. HOLDER: Yes, yes, Your Honor. Thank you.

THE COURT: Ma'am, thank you very much for your testimony today. You are free to go. You can leave the courthouse.

MS. HILDEBRAND: Thank you.

END OF TESTIMONY OF JESSICA HILDEBRAND

THE COURT: Did you have her under subpoena?

MR. HOLDER: Yes, Your Honor.

THE COURT: She's met her obligations, right?

MR. HOLDER: Yes, yes she has.

THE COURT: Okay, you are no longer under subpoena. You are free to go.

MS. HILDEBRAND: So, I'm done.

MR. HOLDER: You are free to go.

MS. HILDEBRAND: Thank you.

MR. HOLDER: Thank you very much. I appreciate your time.

THE COURT: Thank you Ms. Hildebrand. Okay. So, that takes care of the Defense witness out of order. Yes?

MR. HOLDER: Yes.

THE COURT: Alright, Mr. Pembroke.

MR. PEMBROKE: Your Honor, my next witness would be my expert witness, Mr. Joliet.

THE COURT: Okay.

MR. PEMBROKE: Anticipate he's going to take some amount of time.

THE COURT: Why don't we take a quick break?

MR. PEMBROKE: Thank you.

THE COURT: Because I think what we will do, we are at 3:40. Let's just take a quick five minutes. Once Mr. Joliet is on the stand we'll go to 4:30 and then we will be done for the day. Okay. Alright.

(Whereupon at 3:38 p.m., court was in recess and resumed at 3:44 p.m., and the following occurred in open court:)

THE COURT: Okay, before we get Mr. Joliet on the stand, let's deal with a little bit of housekeeping. Mrs. Larson is in Europe and I think we had figured out if she was going to testify it needed to be tomorrow sometime between noon and 3:00. But I believe the Defense was going to make a decision after the testimony of Mr. Young whether she was truly necessary. Have you had an opportunity to discuss it? And the reason I asked this Mr. Holder is if we're going to get her on I'd rather start moving on that with Mr. Larson this evening as opposed to wait until 9:00 o'clock tomorrow morning because then she's in limbo getting packed for her

trip. What are your thoughts Mr. Holder?

MR. HOLDER: I had a discussion with Mr. Pembroke about eight fact witnesses that are going to testify. They didn't see any No Trespassing signs. Probably didn't look for them. Probably don't know anything before 2016. And if we could stipulate that those witnesses would say that - -

THE COURT: And Mrs. Larson is Lot 15, no, 13. Right?

MR. HOLDER: She's 13. Correct.

THE COURT: Okay. Well, did you all have that discussion Mr. Pembroke, at least with respect to Ms. Larson, whether there are other witnesses, fine, but - -

MR. PEMBROKE: Well, we had that discussion I believe, my understanding was with the calling them the Stonecrest neighbors in general. I told Mr. Holder that I certainly thought we might be able to make some progress in that regard but, you know, given, given this case I said I think we should have the stipulation in writing so that we both, you know, so that it's firm enough rather than just orally putting it on the record. He indicated that after court today we would attempt to do that.

THE COURT: Well then let's do this. Why don't we get Mr. Larson moving on it? That she is available tomorrow 1:00 p.m. eastern time, which I think would be 7:00 p.m. Europe time, right, that's what he said six hours ahead.

MR. HOLDER: Five or six hours.

THE COURT: I want her available 1:00 p.m. Please set up the Zoom and in the interim, maybe when we get together tomorrow morning this issue is solved and then we can call Mr. Larson back and say we don't need her. Okay, can you take care of it?

MS. VANDERAU: I can.

THE COURT: Thank you. Is that a good resolution for both parties?

MR. HOLDER: I think so, Your Honor.

MR. PEMBROKE: Yes, sir.

THE COURT: Okay. For now, we will have her on hold but we are getting her set up.

MR. HOLDER: Okay.

THE COURT: Mr. Pembroke, your next witness, sir.

MR. PEMBROKE: Thank you. Call Christopher Joliet, Esquire.

THE COURT: Yes, sir.

TESTIMONY OF CHRISTOPHER JOLIET

Christopher Joliet, having been duly sworn, did testify as follows:

THE COURT: Okay, have a seat, sir. Your name and business address, sir.

A. Christopher Joliet, 223 North Prospect Street.

THE COURT: Very good. Mr. Pembroke.

DIRECT EXAMINATION

BY MR. PEMBROKE:

Q. Mr. Joliet, what is your occupation?

A. I'm an attorney. I specialize in real estate.

Q. How long have you been licensed?

A. For, since 1978.

MR. PEMBROKE: Your Honor, to try to move this along, I believe we have a stipulation as to the qualifications of the expert.

THE COURT: Yes.

MR. PEMBROKE: But other than that nebulous term would the Court like it to be a little more narrow in terms of the expertise or the areas that we're interested in?

THE COURT: Why don't you proffer to me what you want his expertise to be qualified as and then I'll ask Mr. Kline if that is okay.

MR. KLINE: Your Honor, I'm going to save a whole lot here. The Court is going to take, is going to sift through this anyway. He's an expert. We've already stipulated to that. Just ask your questions and you'll indicate what he's an expert in.

MR. PEMBROKE: Alright.

MR. KLINE: There's no reason to indicate why he does title work and real estate work.

THE COURT: Mr. Joliet is accepted by this Court as a Real Estate and Title Work expert based on his many years of

practice in our county. Go ahead.

MR. PEMBROKE: Thank you, Your Honor.

Q. Mr. Joliet, let me show you what's been admitted as Plaintiff's exhibit number 3. Do you recognize the exhibit?

A. Yes, I do.

Q. And what is it?

A. That is a 1988 plat that was recorded just I think, I think just before the Wickline sold to Mr. Young. As I recall, Mr. Young insisted on having the property all unified in one description and he wanted to see what he was getting.

Q. Alright, and, so, this depicts the property now known as 13 Dogstreet Road?

A. That's correct.

Q. In Keedysville?

A. That's correct.

Q. Okay. Now, you said the property was combined.

A. Into one property, yes.

Q. Okay. What had it been before it was combined?

A. It was three separate parcels. The first parcel - -

Q. Can you come down and for the Court indicate which area contains Parcels 1, 2 and 3 please?

A. Sure. (Steps down to easel to review Plaintiff's exhibit number 3.) First parcel is a large one that has panhandle 2, what I believe had been Dogstreet Road. I think Dogstreet Road was moved down that way. It said to a farm

gate, which makes sense. And the Wicklines said that they had adversely possessed the land between panhandle - -

Q. Well, first before you get to that.

A. Okay.

Q. Just identify where each parcel is?

A. Okay. Parcel 2 would be this, this tall section here. Parcel 3 would be this section here.

MR. PEMBROKE: For the record, do we need any further indication of what he's pointing to?

THE COURT: He's indicated Parcel 1 as the larges parcel with about 2/3 of the panhandle. Parcel 2 is the southern 1/3 of the panhandle down Dogstreet Road and Parcel 3 is identified there as the north to south parcel about 12 feet wide and 400 some odd feet long, right?

MR. PEMBROKE: Thank you.

THE COURT: Is that it Mr. Joliet?

A. That's correct.

THE COURT: Okay.

A. The deed before that, the deed - -

THE COURT: Mr. Joliet, you can come up. (Witness returns to witness stand) Here's exhibit 2 if you need it. It's just a smaller version, if you need it.

A. Okay. The deed into Wickline's - -

MR. KLINE: Objection.

Q. Well, let's - -

A. Oh, sorry.
THE COURT: Wait for the next question.
A. Okay, go ahead.
THE COURT: You can have a seat, sir.
Q. During the course of your work on this case did you do a title search?
A. I did a title search of Mr. Young's property and the Stonecrest property and the Stonecrest property was actually also Mrs. Butts' property at one time.
Q. Okay. Now - -
A. Oh, and I did Holders.
Q. Okay, as part of that, as part of that search did you discover a deed going back to 1872?
A. Yes, for this case, yes, I did.
Q. Okay.
A. In Holder's chain. The deed in 1872 came from the Stonecrest chain.
Q. First of all - -
A. Oh, I'm sorry.
Q. Let me show you.
THE COURT: Mr. Joliet, I expect you're going to be here tomorrow so we don't have to go too fast.
A. Alright.
THE COURT: I hope your calendar is clear for tomorrow.
A. I tend to go talk fast.

Q. Let me show you what's been marked Plaintiff's exhibit 7 and ask if you can identify that.

(Plaintiff's exhibit 7 was marked for identification)

A. Yes, that is the opening deed for the Holder chain. I call them Holder, it's Holder and Uncle Eddie's. I kind of combined them all but they're separate chains.

THE COURT: And so that I'm clear Mr. Pembroke, when we say Holder and Uncle Eddie's it's really Deena Holder and Uncle Eddie's.

MR. PEMBROKE: That's correct.

A. That's correct.

THE COURT: Just so I'm understanding. Justin Holder is not an owner of the two lots that Deena Holder holds to the north of what's shown on Exhibit 3.

MR. PEMBROKE: On Antietam Drive, that's correct.

A. That's correct.

THE COURT: Right, okay.

A. This is the initial deed for the Deena Holder Uncle Eddie chains. It went to, I think, Kretzer in 1872 and this is the deed that had the language saying we grant you forever the use of our Wagon road.

Q. Alright, now that's somewhat difficult to read is it not?

A. Yeah, very difficult to read.

Q. Alright, can you read it?
A. Not very quickly.
Q. Would this assist in your testimony?
A. Yea.
Q. And what is that?
MS. PEEPLES: Well - -
THE COURT: Hang on. What are you looking at there Mr. Joliet?
A. This is a transcription; original deed is handwritten and this is typed up.
Q. Who typed that up?
A. I think it was my secretary.
Q. I believe that's correct.
THE COURT: Based on your reading of it?
A. Yea. It's very, very difficult to read and it had a couple blanks.
THE COURT: Okay.
Q. Alright, now with respect, why don't we try to do it this way. Let's do it parcel by parcel. So, let's start with - - Mr. Young's Parcel 1, okay.
A. Mr. Young, okay.
Q. Mr. Young's Parcel 1. Did you find any easements or rights of way over Parcel 1 pertinent to this case?
A. No, I did not.
Q. Okay, and what is that statement based on? How do

you, why do you say that?

A. I searched the title. I did come up with Reeder reserved a right to go from one gate to the next gate while he owned farm that I believe is owned by Mr. Estes.

Q. On this plat where that would have been?

A. The earlier plat - - There's a plat recorded with the - -

Q. Does it - - Okay.

A. There's a plat recorded with the deed from Reeder to, yeah, that shows the gates.

Q. Okay.

A. So, when - -

Q. Hold on, hold on. Alright, can you identify this exhibit?

A. Yea, this is a plat that was that was recorded with the deed from Reeder to Wickline in 1966.

(Plaintiff exhibit 8 was marked for identification)

Q. Alright, that was a predecessor deed to the Wickline Young deed?

A. Right, right.

MR. PEMBROKE: Your Honor, I'd like to have that marked and admitted as Exhibit 8.

MR. KLINE: No objection.

THE COURT: Let's go back to number 7 before we forget

it. It's the 1872 deed. Are you asking that that be admitted?

MR. PEMBROKE: Yes, Your Honor.

THE COURT: Any objections?

MR. HOLDER: No objection.

MS. PEEPLES: No objection.

THE COURT: Exhibit 7 is admitted as the 1872 deed. Exhibit 8 is admitted as - -

(Plaintiff exhibits 7 and 8 were admitted into evidence)

MR. KLINE: With respect to 7. That's the deed itself, not the transcript?

THE COURT: Right.

MS. PEEPLES: Correct.

MR. KLINE: Just making sure. Thank you, judge.

A. When I did the title, I took it back to 1864 and back there I think in the first deed the reserved fishing rights. There's a stream along here and they wanted to reserve fishing right, but that doesn't have anything to do with this. Then, when the Reeders sold it to Wickline. He reserved the right to go from this gate to this gate with farm equipment because he owned a farm up here.

THE COURT: And you're indicating from the south of the Wickline property to the north of the Wickline property - -

A. That's correct. That's correct.

THE COURT: - - generally right through the middle of the property.

A. That's correct.

THE COURT: Of what was, what we are thinking of as Parcel 1.

A. That's correct.

THE COURT: Got it.

A. And those plats shows Parcel 3, Parcel 1, but it didn't, it didn't have a plat (unintelligible) Parcel 2. I don't know why.

THE COURT: Okay.

Q. Now, you just mentioned a deed from 1966 from Reeder to Wickline?

A. That's correct.

Q. Okay. And that's in the chain of title?

A. Yea, it's right before the deed to Mr. Young.

Q. Alright, let me show you what's been marked as Plaintiff's exhibit 9, and I ask if you can identify that?

(Plaintiff's exhibit 9 was marked for identification)

A. It's a copy of deed, yep, it's attached and the large plat there is - -

Q. Okay, that's the Reeder Wickline deed?

A. That's the Reeder Wickline deed.

MR. PEMBROKE: Move for admission of 9.

THE COURT: Any objection?

MS. PEEPLES: No objection.

MR. HOLDER: No objection.

THE COURT: Okay, number 9 will be admitted. Plaintiff's 9, this is the 1966 deed Reeder to Wickline.

(Plaintiff's exhibit 9 was admitted into evidence)

Q. Now, you've indicated that the property that, the property that's listed here or that's shown here on Exhibit 8 is the same property that's on Plaintiff's Exhibit 3, Plat 2499, correct?

A. Yes, but when Mr. Frederick did it he corrected some bearings and he actually came up with a little bit less land than was recited in the Reeder to Wickline deed, not much, but a little bit less.

Q. Did you find any discrepancies in the Wickline to Young deed?

A. No.

Q. Okay. Now, other than the easement that you just testified to with respect to Parcel 1, did your title search reveal any other easements or rights of way over Parcel 1 pertaining to this case?

A. No.

MR. HOLDER: Your Honor, I'm just going to object to testimony about Parcel 1. It's not relevant to Parcels 2 and

3 in the Complaint.

THE COURT: Overruled.

Q. In the Wickline, I'm sorry, in the Reeder deed in 1966, is there a description contained in that deed with respect to a lane?

A. Yea, it refers to a lane and that's the panhandle. It's, the lane starts probably where the house is and it goes down the panhandle.

Q. Okay. And that's part of Parcel 1?

A. It's part of Parcel 1.

Q. Okay.

A. It describes Parcel 2 and 3 severally.

Q. And based upon, based upon your research and your title search who was the owner, who is the current owner of Parcel 1?

A. Mr. Young.

Q. Okay. And that's by virtue of what?

A. Virtue of his 18 - - I'm sorry, his 1980 deed. He did transfer briefly to him and his wife and then transferred it back to him only.

Q. Okay. Now, with respect to Parcel 2, did you do a title search also involving Parcel 2?

A. Yes. That's the same search that takes you through Stonecrest because it's the Jennifer Butts, (unintelligible) it's called Jennifer Butts Dorsey, the Jennifer Butts chain.

Q. And when does Parcel 2 first appear in the records?
A. The first time it appears is in the Reeder to Reeder to Wickline.
Q. That's the 1966 deed?
A. That's the 1966 deed.
Q. Okay. And do you recall who it's referred to?
A. It says I give all my right, title and interest into the following property and then it gives a metes and bounds description.
Q. Was Parcel 2 included in the 1988 Plat 2499?
A. Yes.
Q. Okay. As you pointed out, correct?
A. Yes. It's their - - It wasn't included in the plat that was attached to the Reeder to Wickline deed for some reason.
Q. Okay. And is there an overlap with respect to Parcel 2?
A. Yea, Mr. Frederick found that there was no overlap that what was described in it's a whole parcel, which includes Parcel 2, overlapped what was described in Jennifer Butt's deed.
Q. Can you show the Court where the overlap is?
A. Sure. It's marked on Mr. Frederick's plat and it's right here.
THE COURT: The bottom, the southern third of the

panhandle lane.

A. Right.

THE COURT: And so that Mr. Pembroke, may I ask a question?

MR. PEMBROKE: Certainly.

THE COURT: And so that I understand, the language you just sort of recited to me - -

A. Okay.

THE COURT: Which deed was that in?

A. Reeder to Shank in the 1966 deed. Reeder to Wickline.

THE COURT: Wickline.

A. 1966 deeds.

THE COURT: Okay.

A. We give you all our right, title and interest into that parcel. Then when Wickline sold to, to Young, if my names straight, they said, hey, we've adversely possessed, they put that under oath, he said we've adversely possessed that. That would be very important because you need to have access to a public road and with that language we're safe enough to go along because they had held it since 1966, '76, '86, that would be over twenty years. And they spelled out all the adverse possession - -

THE COURT: In the deed.

A. - - in the deed and they said it was under oath.

Q. And what type of, what type of deed was the 1988 deed from Wickline to Young?

A. It was a general warranty deed.

Q. What does that mean, generally?

A. Well, they'd stand behind the title to the property.

Q. Alright and that's - -

A. They nor their predecessors wouldn't have done anything to jeopardize the title?

Q. And that's to be distinguished from a Quick Claim Deed?

A. Well Quick Claim Deed generally means you're not sure that you have title at all but you're saying, hey, whatever title I've got I give to you. For example, Ms. Butts probably didn't even know she had title to that land. Apparently the road had shifted in that direction so she said, okay, I quick claim any claim I have to that. And she quick claimed it to Mr. Young.

Q. Alright, and when did that happen?

A. That was in 1993.

Q. And what portion, what portion of this property, if you look on Exhibit 3, what portion of the property was involved in the Quick Claim Deed from Jennifer Butts to Mr. Young?

A. Same parcel.

Q. Alright, Parcel 2?

A. Right.
Q. Okay.
A. I can stay down here for a while if you're going to - -
Q. Okay. Now, Parcel 2, Parcel 2 was described in the 1988 deed, correct?
A. Well, not separately because in 1988 - -
Q. I know.
A. - - they combined all three parcels into one description.
Q. And in combining the parcels it's clear from the description of the deed that it's talking about Parcel 2 - -
A. Yes.
Q. - - as part of the conveyance.
A. Right.
Q. Okay.
A. And it's marked on the plat it was recorded at 2499.
Q. Now, can you just show the Court again where is the end of Parcel 2?
A. On Dogstreet Road.
Q. Okay. And it runs to where?
A. It runs to the tip of Parcel 1 at what's called the farm gate.
Q. Okay. Based on your research and title search are there any recorded easements over Parcel 2?

A. Not over Parcel 2, no.

Q. How far back did you go?

A. Well now taking Dorsey back probably at least to the turn of the century, maybe a little bit earlier. She was related to a Mr. Cost (sp.) who owned it. I think she was a descendant. He owned property on either side of Dogstreet Road. (Unintelligible) south side of Dogstreet.

Q. During your research did you, did you look into tax records for this property?

A. Yea.

Q. Okay. Let me show you what's been marked as Plaintiff's exhibit 10 and ask if you can identify that.

(Plaintiff's exhibit 10 was marked for identification)

A. I think it's tax map 73 if I got my bearings right.

Q. Okay. Do you recognize it as a tax map?

A. Oh sure. It's a tax map that shows Mr. Young's property this Parcel 180 and it refers to Plat 2499 Harry Wickline property line survey.

Q. That's the same, that's the same as Plaintiff's exhibit 3 and 2?

A. Yeah. And they use it in Young's tax assessment they refer to that and they refer to the exact acreage that he's got in his deed.

Q. Alright, did you review the tax assessment records

as well?

A. Yea, yea.

Q. Alright, who's been paying, who's been paying the property taxes on the property at 13 Dogstreet Road?

A. Well, presumably Mr. Young. I mean I don't know who did it but if somebody didn't pay it, it would have gone to the tax sale, so they're paid.

Q. Tax bill is in his name?

A. You're right.

Q. Okay.

MR. PEMBROKE: Move for admission of 10.

THE COURT: Any objection?

MR. HOLDER: Other than I believe it's the same as the first exhibit I handed Mr. Young, just blown up.

THE COURT: Well, now it's in.

MR. HOLDER: Yea.

THE COURT: It will be admitted.

(Plaintiff's exhibit 10 was admitted into evidence)

MR. PEMBROKE: Thank you, Your Honor.

Q. Did you review the titles to the east and the west of Parcel 2?

A. Yes.

Q. Okay. And what did that show?

A. Well, this at one time was owned by an outfit called

the Partnership. And it became the Rockingham subdivision. I think these (unintelligible) might be partnership. But on Plat, get this right, I think it's 4666, four three sixes on this one. They refer to the panhandle containing, containing Parcel 2 and part of Parcel 1 as belonging to Mr. Young. And then the Stonecrest one does the same thing it specifically refers to Mr. Young as owning this strip. In fact, his driveway encroaches a little bit onto the Stonecrest property and on their plat they say they grant him (unintelligible) easement and they give it to him by name.

Q. And what is the significance of that?

A. Well, the owners on either side are acknowledging that he's, he owns the panhandle, the entire panhandle. Did I get that number right?

THE COURT: Maybe, we'll see.

Q. Alright, Mr. Joliet, let me show you what's been marked as Plaintiff's 11. Can you identify that document please?

(Plaintiff's exhibit 11 was marked for identification)

A. Yea, that is 4666. I got it right.

Q. That's the plat that you were just referring to?

A. Yea, they show Dogstreet Road and then they say now formally Jeffrey Young and they got his liber folio on it.

Q. Now the fact that it mentions Mr. Young by name on

this plat what is the significance of that?

A. Well, that means they are saying that their property ends where his property starts.

Q. So, he's acknowledged as being the owner?

A. Right.

MR. PEMBROKE: Move for admission of 11.

THE COURT: Any objection?

MS. PEEPLES: No.

THE COURT: Plaintiff's 11 is admitted.

(Plaintiff's exhibit 11 is admitted into evidence)

Q. What property is located to the west of Mr. Young's property?

A. Stonecrest.

Q. And what is - - Just very briefly, what is Stonecrest?

A. Stonecrest the other lady was testifying that she was an owner of two of the lots at Stonecrest. It's just a subdivision.

Q. Okay, have you seen the Stonecrest plats?

A. Oh, yea.

Q. Let me show you what's been marked as Plaintiff's exhibit 12. Do you recognize, do you recognize this?

(Plaintiff's exhibit 12 was marked for identification)

A. Yes.

Q. What is it?

A. This is a plat of, I guess part of Stonecrest, but it shows Mr. Young's property here and this is where it says ingress and egress over the existing driveway that's where it slightly encroaches onto the Stonecrest property, for the use of Young and (unintelligible) liber folio (unintelligible) in the signs.

Q. Alright, now you said that this road or this line encroaches slightly onto the Stonecrest property?

A. Well, his driveway.

Q. The driveway, I'm sorry.

A. The driveway, not the line.

Q. Alright the driveway. And how was that dealt with?

A. Well, they acknowledged it and they said, they gave him an easement over it, the encroachment.

Q. Alright. Now, on this plat is Mr. Young designated as the owner of the property that he is claiming.

A. Well, that's an indication and also got this you referred to it now formally Young, you got a liber and folio in plat number 2499. So, they used 2499 to show where he was in relation to them. And then they got the partnership down here that's plat 4666 that we just went over so you got people on either side or have recorded plats that acknowledge he's the owner of the entire panhandle.

Q. And, which, okay - - And the panhandle is Parcel 2 of Mr. Young's property?

A. No, it's Parcel, part of Parcel 1 and part of Parcel 2.

Q. I'm sorry.

A. Confusing.

Q. Small part Parcel 2, longer part Parcel 1, correct.

A. Got it.

Q. And what is the significance of Mr. Young being designated on the plat as the owner of the property?

A. Of the adjacent property, that means they're using his Plat 2499 as point of reference. And they're making their lines according to his.

Q. Is that an indication of ownership by Mr. Young?

A. Sure.

MR. KLINE: Objection.

THE COURT: Overruled.

MR. PEMBROKE: Thank you, move for admission of 12.

THE COURT: Any objection to number 12?

MS. PEEPLES: No, Your Honor.

MR. HOLDER: No, Your Honor.

THE COURT: Exhibit number 12 is admitted as Plat 8292 Stonecrest.

(Plaintiff's exhibit 12 was admitted into evidence)

Q. Now, let me show you what's been or will be marked as Plaintiff's 13. Do you recognize this document?

(Plaintiff's exhibit 13 was marked for identification)

A. Yes.

Q. Okay, what is it?

A. That's the other end of Stonecrest and it again references Mr. Young and his plat 2499. Yea. This is his Parcel 3 over here.

THE COURT: You mean south of the, oh that's not exactly - -

MR. PEMBROKE: No, it's oriented differently.

A. Yea.

THE COURT: So, you're saying east of the property line that is shown as the Stonecrest property line would be Parcel 3?

A. Let me see. West, no he's east of Stonecrest. So, and this shows his corner of lot, of Parcel 3 and it goes straight down.

Q. To?

A. To I guess the rest of his property. Probably Parcel 1.

Q. Alright, and what does the, what is the significance again of him being designated on this plat and referencing plat 2499?

A. This owner is saying that he owns, Young owns, everything east of the wire fence that you see here.

MR. HOLDER: Objection for the record.

THE COURT: Overruled.

Q. Continue.

A. The thing is it's kind of confusing. If you put the two plats together the line for Parcel 3 of Young that line that Fred Frederick held when he had Plat 2499 is exactly the same as he found here. Part of that line for Parcel 3 is here, looks like it's part of Lot 14. And the rest of it goes up to where it shows his corner. And it's exact same measurement as Fred Frederick. It's just a little bit on this plat and the rest of it it's on that plat. It shows also still shows the wire fence. Now, the wire fence doesn't go over the entire of Parcel 3. It only goes up to here. That's the same as Fred Frederick showed in his plat. He shows wire fence going to here to here and then curving off. And of course, there's no claim past that.

Q. Alright, Mr. - - To your knowledge based on your work on this case Mr. Young is not claiming - -

A. No.

Q. - - where it veers off. He's claiming on the line as it appears.

A. Yea he's only claiming what was in actually in this deed description Wickline to Young is exactly the same as

this. And so, he's - -

THE COURT: We're looking at exhibit 3.

MR. PEMBROKE: Yes, sir.

A. So, he's only claiming what's on the plat and what's exactly in his deed. So, where the fence curves off that's not part of his property.

Q. If I may have just a moment? Now, Mr. Joliet, did your research indicate that there was at some point around the time that Stonecrest was being developed a dedication to the county by Mr. Young?

A. Yeah, yeah. It's on record. I don't know right off the bat what the liber folio is. But the first guy to develop Stonecrest was named Davis. And he went to Young and he said, look, I'll give you two thousand or twenty-five hundred dollars if you dedicate the tail end of your panhandle, which would be our lot, our Parcel 2. If you dedicate the tail end of that to the County because I need to have Dogstreet Road widened in order to develop Stonecrest.

Q. And was that done?

A. Yeah, they were both recorded. The agreement to give Mr. Young twenty-five hundred dollars and the dedication to the County were both recorded.

Q. And was that - - Do you know whether that was a warranty deed or a quick claim deed?

A. Well, the first was an agreement. I heard it was

introduced earlier today. And then the deed to the County was really a dedication to the County, the tail end of this to widen.

Q. Now, would Mr. Young be able to do that if he didn't own the property?

A. No, the County wouldn't have taken it if he didn't own the property.

Q. Is it your opinion then that Mr. Young owns Parcel 2?

A. Absolutely.

Q. And by virtue of what?

A. By virtue of two things. One, is his adverse possession, his predecessor's adverse possession for which he (unintelligible), and the Quick Claim Deed from Jennifer Butts. So, he's got that nailed down.

Q. Alright. Let's turn to Parcel 3. When you were researching this property did you check the chain of title with respect to Parcel 3?

A. Only goes back to, just like Parcel 2, it only goes back to 1966. Reeder had acquired the property I think in 1945 and apparently he was using both those two parcels and he gave the big parcel, Parcel 1, to Wickline and he said I also give you Parcel 2 that's the tip of the panhandle and Parcel 3 which is runs along the side there.

Q. And, um, Parcel 3 is included in - -

A. In the whole description.
Q. And in Plat 2499.
A. 2499, which is referred to in the Stonecrest plat.
Q. Okay. And in the Stonecrest plats with respect to Parcel 3 are there any discrepancies with respect to where the lines are?
A. No, it's the exact same line. They even show the corner on Plat 8293, they show the corner that I pointed out.
Q. Alright, does Parcel 3 appear on the tax map as well?
A. Well, yea, it's in, 2499.
Q. Let me show you. If it's still up. Alright, showing you Plaintiff's exhibit 10. Can you show the Court on the tax map where Parcel 3 is located?
A. It would be right here in lots 10, 11, 12, 13 and 14.
Q. Okay, and is there any indication on this map that Mr. Holder is not the owner of that property?
A. You mean Mr. Young.
Q. I'm sorry. My apologies. Mr. Young.
A. Yea, no. There's no indication in the tax records through the tax map that doesn't own it.
Q. Now, if we could get back to the 1872 deed.
A. Right.
Q. 1872 deed talks about a is it a use of or a right to

use?

A. It doesn't have the word right in it. It just says I grant you and your heirs, successors, and whatever, the use of a wagon road.

Q. Now, during the period of time when that deed would have been prepared would you expect if an easement was intended to be created that the words easement - -

MS. PEEPLES: Objection.

THE COURT: What's the objection?

MS. PEEPLES: He's, Mr. Pembroke is asking Mr. Jolie to make an opinion as to what would have been intended as an easement in the period of 1872. I don't think he's qualified to make that. That's a question of law.

THE COURT: Mr. Pembroke.

MR. PEMBROKE: Your Honor, I think that as an expert dealing with title searches all the way back into the 1870's reading deeds, reading plats, doing surveys he would certainly know what terminology was or wasn't used at the time and for what purpose.

THE COURT: Ms. Peeples.

MS. PEEPLES: To understand the intent you'd have to understand the people making the deed and Mr. Joliet cannot put himself in the position of Aaron Cost and Melinda Cost, who granted this. There's no way to know what they meant other than a plain reading of the of the actual deed and then

that begets a legal conclusion, Your Honor.

THE COURT: Understood. Objection - - The objection is overruled. I will give it the weight that I think that it is due. He is an expert in this Court. This is what he does for a living. I'm sure he has looked at very, very old deeds to understand the use of language at the time. But, again, it's, it's my call whether it's a license or right of way. I'll give it the weight that it's due. I recognize the limitations that we have that none of us were in there in 1872 with Mr. and Mrs. Cost at the time. I fully understand.

MS. PEEPLES: I appreciate that.

THE COURT: I'll give it the weight that it's due.

A. That's exactly the problem. You can't tell what they wanted. They could have said we give you and your heirs the right to use your well. You can't tell exactly what they want. It ends up in somebody else's property. So, it doesn't go to a public road.

Q. Explain - - Excuse me. Explain what you mean it ends up in someone else's property?

A. Well, it ends, the description ends, I guess I might as well use the tax map for this, as well as anything else. It would go from there Parcel 127 basically maps changed a little bit there. The wagon road they described goes from here to here and ends in our Parcel 1 and they say to our Parcel 1. And there's no right of way in Young's chain over

his panhandle that he's given to these people.

Q. Would you - - Would you walk us through that specifically using the language in the 1872 deed?

A. Well, I'd have to look - - I think, and you can only guess what their ideal was. That, yea, they did think maybe they were friendly with the guy who owned, uh, his name was Keedy, who owned Young's land but they couldn't give a right of way over somebody else's land. So, they said you go to - -

MR. KLINE: Who is they?

THE COURT: Cost.

MR. KLINE: If he could just emphasize who's they and who's he for the record.

A. Cost, Cost gives to Kretzer and that's where this thing starts. So, it goes to somebody else's land so it's really hard and there's no width given to it, so it's really hard to say what the purpose of it was. I think their purpose was ingress and egress, they were probably friendly with Keedy but they can't give a right of way over his land. They didn't try. They just said you go to Keedys road or his lane that goes to the County road. So - -

Q. Can you show us - - Can you show us what when you say Keedys Road can you show us - -

A. Well, Keedys Road would be the panhandle on here Parcel 1. Well, it probably be easier to go with this one.

Okay.

MR. PEMBROKE: Let the record show he's referring to Plaintiff's exhibit 3.

A. The right of way goes down or the right of way, easement, Wagon road, whatever you want to call it. I think it did go down what is now Parcel 3 but it ends at Parcel 1 and it says specifically, it says, you go along the Keedy property line, Keedy Cost property line to the point where Keedys Road goes to the County road. So, I don't know. It's hard to say. I don't know whether they used the road to pick pumpkins or something or what or if they intended for it to go there but if they intend for it to go to the County road they didn't do it. It stops, it stops at Keedys Parcel 1, or Young's Parcel 1 now.

Q. In the deed, the 1872 deed, does it, does the width of the Wagon road - -

A. No.

Q. - - does it specify?

A. No.

Q. And do you find that the lack of specificity in that regard to be significant?

A. Well, it's something I consider because while they're very careful to say it goes on the railroad lot, railroad tracks and it gives the exact calls for along the railroad tracks and then it says follow Keedys property line.

So, that's all exact but then it just dead ends. And it doesn't have width to it. I think I know what their intent was but that's the problem. I have to guess what their intent was. And they could have said, you know, you have the use of my well. And the road stopped existing so what happens when the well or the road stops existing, you know. And it even was a right of way it's, it would have been lost by, first of all, by Mr. Young's adverse possession, Parcel 3, would serve no purpose to have a right of way over Parcel 3. It goes nowhere. And then there's question of latches because they let Stonecrest be developed and - -

Q. Who is they?

A. Well, whoever was in the chain for, I think it was Hutzell at that time. Whoever was in the chain. They didn't stop that and one of the Stonecrest plats 8295 says there were no rights of way on this property that don't show on the plat. And there's no reference if I go do a title search for Stonecrest I have no way of knowing about this out conveyance unless I go over a hundred years to see an out conveyance that has maybe a right of way.

Q. Let me show you what's been marked as exhibit 14 and ask if you can identify that.

(Plaintiff's exhibit 14 was marked for identification)

A. Us, the one where the guy who - -

Q. Well, first of all what is it?

A. It's a - - When they developed Stonecrest there were I think three or four plats, four or five plats and this is the last one where they tell the county - -

Q. What's the number?

A. This is plat, I'm sure it's 8295, yeah, it's 8295.

Q. Okay. And what does it depict.

A. And this is what they're saying there are no rights of way or easements on this property that we're subdividing that don't show on the plat. And they would have no way of knowing because even if you take a hundred years back you don't see this out conveyance. So, unless they saw something on the ground they'd have no way of knowing if there was a wagon road there.

Q. And this is the last page of the - -

A. Of the seven plats.

Q. Okay, starting there.

A. I think there was 82, 92, 93, 94, 95.

Q. Okay and that's the last one?

A. This is the last one, yeah.

Q. Alright. And not to belabor the point what is the significance of the plat indicating that there are no easements or right of ways not depicted on the plats?

A. Tells me two things. Tells me that when Stonecrest certainly did their title they didn't pick up on this alleged

easement because they'd have to go back to 1872 to see that out conveyance, which is asking a lot. The second thing it tells me is they didn't see anything on the ground.

MR. PEMBROKE: Move for admission of 14.

MS. PEEPLES: No objection.

THE COURT: It will be admitted. Thank you. Plat 8295.

(Plaintiff's exhibit 14 was admitted into evidence)

Q. Do you have, do you have an opinion as to whether or not Parcel 3 is currently subject to access by someone other than Mr. Young as the owner?

A. I do have an opinion and I think he would be the only one who would have access to it.

Q. Okay and what is your opinion based on?

A. Well, first the original grant in 1872 is in the nature of the license not a right of way but - -

Q. Okay, can you - - Okay, will you explain for the record the difference between them?

A. Well, a license says you can you use something. Okay. A right of way or easement says you have the right, and they specify exactly what you have the right of way. But even if this was a right of way even if the Court determined it was a right of way it was either lost by latches, when they didn't do anything, by abandonment because Hutzell who was the last owner, not of Uncle Eddies, Uncle Eddies I don't

know why they're even here because for eighty years it didn't even say a general together with. Uncle Eddies deeds just said here's the property, never together with until last (unintelligible).

Q. And what's the significance of that?

A. If I have a property it has a right of way or easement or other benefit and I give it to you and I don't give you that benefit with it then you don't have that benefit. Now, if I add to the deed then I give it to you I say all rights of way of record that's one thing but he goes, Uncle Eddies chain goes eighty years without mentioning together with anything of record, no together with at all.

Q. Okay, can you specify a little bit about what eighty years are you referring to?

A. Well, Uncle Eddies property changed hands a couple of times but starting, and they did say together with until 1918 and then from 1918 till 2014 I think it was there was no together with at all not a mention of together with anything.

Q. So, is it your opinion then that the omission of that language means that the entitlement is lost?

A. Right. Now, although the current deed they did say, oh to go to right of way but it's too late. You already let eighty years go. I think it's a hundred years, go without mentioning it. Now, as a far as Mrs. Holder's a right of way can be abandoned in addition being lost be adverse possession

but that lost by adverse possession as far as I'm concerned that only concerns are on Parcel 3. But it can also be lost by abandonment and that would be over the, over the forest conservation area and the lots in Stonecrest if it was abandoned. You got decades of unuse. You got it ceases to exist. And then coincidently when the Hutzell estate sells it, Hutzell's get it in 1963 and says together with the Wagon road.

THE COURT: They get what in 1963?

A. Uh, they get the property that is now Deena Holder's.

THE COURT: Okay.

A. Okay. And it says together with the Wagon road, whatever you want to call that. Okay. When they get ready to sell it in July of, I can't remember what year it was, '17, they say oh they have a declaration they put on record saying we have access to Antietam Drive and coincidently when they deeded it out for the first time in a hundred years there's no mention of the Wagon road. No mention at all. And that looks to me as if it was a deliberate omission.

Q. Let me show you what's been marked as Plaintiff's 15. Do you recognize that document?

(Plaintiff's exhibit 15 was marked for identification)

A. This is the declaration by the Hutzell estate that

their perpetual right of way and easement for ingress and egress is over Antietam Drive.

Q. And what is the significance of that to our issues?

A. Because the following month in August they for the first time in a hundred years they have a deed going out that omits any reference to the, to the road, to the Wagon road. Now they did say to go with all of record but it's an awful coincidence that everybody in the chain for a hundred years says something about the wagon road and then they suddenly have this and a month later they deed it out without it. That together with the wagon road ceasing to exist and not being observable looks like abandonment to me. Now for our Parcel 3 I think the adverse possession contrary to use of the road would wipe it out Parcel 3 besides it would go nowhere. It would go to our Parcel 1.

MR. PEMBROKE: If I already didn't already do so I'd like to move for Plaintiff's 15.

THE COURT: Any objection?

MS. PEEPLES: No objection.

THE COURT: 15 is admitted. That is - - What is number 15?

(Plaintiff's exhibit 15 was admitted into evidence)

MR. PEMBROKE: 15 is the Declaration of July 6th of 2017 from the Hutzells for the dedication of ingress and egress to

Antietam Drive.

THE COURT: Alright. Liber 5540 Folio 476.

Q. Can you identify that document?

(Plaintiff exhibit 16 was marked for identification)

A. This is the deed out from the Hutzell estate which is a month later and curiously they don't mention the first time in a hundred years they don't mention anything about a road, the wagon road.

Q. Alright, and your expert opinion do you believe that's an intention of a right to abandonment?

MS. PEEPLES: Objection.

THE COURT: Overruled.

A. It's showing - -

MR. PEMBROKE: Hold on.

A. In my opinion –

MR. PEMBROKE: Hold on there's an objection.

THE COURT: Overruled.

A. Okay.

Q. You may answer.

A. In my opinion that coupled with the fact that the road ceased to exist that shows an intention to abandon to say hey this is our roadway.

MR. PEMBROKE: I move for admission of 16.

THE COURT: Any objection?

MS. PEEPLES: No objection.

THE COURT: Number 16 will be admitted. This is the Hutzell deed liber 5596 folio 488, August 2017.

(Plaintiff's exhibit 16 was admitted into evidence)

MR. PEMBROKE: May I have just a moment, Your Honor?

THE COURT: May I ask a question?

MR. PEMBROKE: Certainly.

THE COURT: This Hutzell deed?

A. That's the Hutzell estate deed.

THE COURT: Okay. Estate of Mary Hutzell to Carl French, right?

A. Right.

THE COURT: Is that the two Deena Holder parcels?

A. Yeah.

THE COURT: Okay. Because there's Parcel 1 and Parcel 2 identified.

A. The Hutzells reconfigured their land. So, it's really hard to follow.

THE COURT: Okay. But you would agree that the deed says it's conveyed subject to all - -

A. All of record.

THE COURT: Okay.

A. But every other deed in the chain goes back a hundred years says something about the wagon road.

THE COURT: Okay. I understand your point. 16 is admitted.

MR. PEMBROKE: Thank you, Your Honor.

Q. Mr. Joliet, I don't think you ever actually answered the question because there was an objection. So, let me ask this. Based upon your experience in the field of real property in the time frame of 1872 was it customary that the language to be used in a deed would be right of way or easement?

MS. PEEPLES: Objection.

THE COURT: Overruled but with the caveat I indicated before that I fully understand that none of us were alive in 1872. I'll give it the weight that it's due.

A. And that would be the custom although you could create a right of way without the, uh, without the specific language.

Q. Well have you - - Have you seen other deeds from that period of time that contained the language right of way or easement?

A. Oh yeah, yeah. Right of way they usually say.

Q. Can either a license or a right of way be lost by adverse possession?

A. Yes.

Q. And how, how does that work?

A. When the adverse possessor uses it in a manner

that's contrary to what the right of way would entail. So, if you block people off and you block the person that has the right to go on and off and you block them off for over twenty years then they lose their right of way.

Q. In determining whether or not a grant is a license or a right of way is the lack of a specific description say the length or the width significant?

MS. PEEPLES: Objection.

A. Well, this gives the length.

MR. PEMBROKE: Hold on. Hold on.

A. Okay.

THE COURT: Sustained. I think that's the ultimate decision I have to make. So, don't answer that Mr. Joliet.

A. Okay.

MR. PEMBROKE: Alright, I have no further questions.

END OF DIRECT EXAMINATION

THE COURT: Okay, folks. We are at ten of five. We went a little bit long today. Okay. Mr. Joliet, I'm going to need you back tomorrow morning. Is that okay?

MR. JOLIET: Sounds fine to me.

THE COURT: Defense will be ready for cross-examination at that time.

MR. HOLDER: Yes, Your Honor.

THE COURT: Is there anything we need to deal with before we break for the evening?

MR. KLINE: Yes, Your Honor.

THE COURT: Yes, sir?

MR. KLINE: Time check.

THE COURT: That's tough for me to do right now. Hang on a second.

MR. KLINE: Well, perhaps tomorrow morning before we start.

THE COURT: Oh, I'll let you know. We are at 4:50 right now.

MR. KLINE: That's all that I'm interested in.

THE COURT: Alright, Mr. Joliet, I'll see you back tomorrow.

MR. JOLIET: Thank you, Your Honor.

THE COURT: If you give me a minute I can do it.

MR. KLINE: I'm good until tomorrow at 9:00, Your Honor.

THE COURT: The Plaintiff has gone for two hours and fifteen minutes. The Defendant has gone for two hours and thirty minutes. And I have not put in there any of our motions arguments. So, you all are right on task.

MR. KLINE: Excellent.

MR PEMBROKE: Your Honor, just for the record, if I hadn't already done so, I would move all of my exhibits 1 through 16 move to be admitted.

THE COURT: I think they have all been admitted.

MR. PEMBROKE: There's a question about 13.

THE COURT: Hang on a second then. Stay where you are counsel. That would be Stonecrest plat 8293 basically the second page of Stonecrest. There's no objection on that one, right?

MS. PEEPLES: I have it admitted already in my notes.

THE COURT: It will be admitted if it's not already.

MR. PEMBROKE: Thank you, Your Honor.

THE COURT: So, 1-16 is in. Is that correct Mr. Clerk?

CLERK: Yes, sir.

THE COURT: Everybody good? Okay, I'll see you all tomorrow at 9:00 a.m. Have a discussion if you would please to discuss Ms. Larson. I think Mr. Holder you can talk to Ms. Peeples and Mr. Kline. You know, essentially, I think what Mr. Pembroke is asking is that we type something up.

MR. HOLDER: Okay.

THE COURT: And have the two of you, have counsel sign it and say this is our stipulation, okay? If you all can make that happen overnight. That's fine, okay.

MR. HOLDER: Yeah, I just wrote it down quickly but I'll type it.

THE COURT: Okay. Alright, are we back in here tomorrow?

COURT REPORTER: We are.

THE COURT: Okay, counsel we are back in here tomorrow. If you wish to leave the big exhibits Mr. Pembroke?

MR. PEMBROKE: Yes, Your Honor, if I could.

THE COURT: Because we can lock the door.

MR. HOLDER: Can I leave these two boxes of mine too?

THE COURT: We will lock the door if you choose to leave it, yes.

COURT REPORTER: I'll tell them no cleaning. I will put a note.

THE COURT: No cleaning down here. Okay, so nobody will come in. We will lock the door. Mr. Holder, what that may mean is if you show up here tomorrow at 5 after 8 the door might be locked until my Bailiff gets here or until someone from my office will open the door for you, okay.

MR. HOLDER: That's fine.

THE COURT: Okay.

MR. HOLDER: Thank you.

END OF PROCEEDINGS OF DAY ONE AT 4:52 P.M.

DIGITALLY SIGNED CERTIFICATE

I HEREBY CERTIFY that I reported verbatim by electronic device the proceedings in the matter of, *Jeffrey Young v. Justin Holder, et al.*, Case No. C-21-CV-20-371 in the Circuit Court for Washington County, on June 21, 2022, Volume I – Day 1, before the Honorable Andrew F. Wilkinson, Judge.

I further certify that the proceedings were transcribed by me to the best of my ability in a complete and accurate manner, and page numbers 1 through 289 constitute the official transcript of the proceedings.

In witness whereof, I have affixed my signature this 10th day of August, 2022.

Linde M. Cessna

Linde M. Cessna
Court Reporter